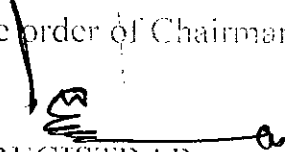


FORM OF ORDER SHEET

Court of _____

Case No. - _____

891 /2023


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/04/2023	<p>The appeal of Mr. Sherullah resubmitted today by Mr. Mehboob Ali Khan Dagai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on-</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Sherullah Ex-Assistant Director Adman E&SE Department received today i.e. on 18.04.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Index of the appeal is unsigned.
- 2- Memorandum of appeal is not signed by the appellant.
- 3- Annexures of the appeal are unattested.
- 4- Affidavit be got attested by the Oath Commissioner.
- 5- Page nos. 17, 18, 21, 34, 71, 81, 82, 86, 107 and 109 to 114 of the appeal are illegible which may be replaced by legible/better one.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

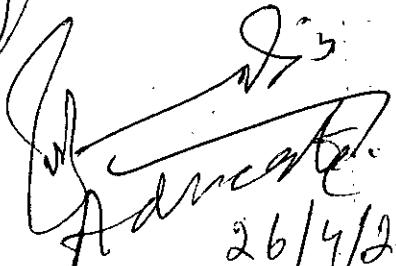
No. 1230 /S.T.

Dt. 19/04 /2023.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mehboob Ali Khan Dargai Adv.
High Court Peshawar.

but Re-submitted after
doing the needful.


Advocate
26/4/2023

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

891/2023

Sherullah, Ex-Assistant Director (Admn)

Versus

Chief Secretary Khyber Pakhtunkhwa Peshawar & Others

I N D E X

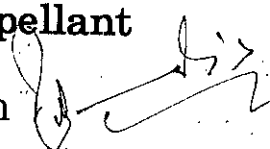
S#	Description of Documents	Annexure	Page#
1.	Service Appeal		1-9
2.	Affidavit		10
3.	Address of parties		11
4.	Copy of promotion order	"A"	12-13
5.	Copy of seniority list	"B"	14-16
6.	Copy of notification of selection grade BPS-17	"C"	17-21
7.	Copy of notification service rule 2013	"D"	22-24
8.	Copy of the order of most senior superintendents & request of the appellant	"E"	25-33
9.	Copy of the notification Ad promotion dated 29.08.2014	"F"	34
10.	Copy of the departmental appeal, reply and re-joinder etc	"G, H & I"	35-50
11.	Copy of the judgment of this Tribunal dated 09.04.2019	"J"	51-56
12.	Copies of the previous appeal 4981/2021, judgment and order dated 27.2.2023	"K, L & M"	57-70
13.	Copy of the notification 9/1 dt: 28.3.2023	M/1	71
14.	Copies of the aforesaid letters 4404 dated 10.12.2019 No. 4393 dated 30.09.2019 and No.2695 dated 25.2.2020	"N"	72-79

15.	Copy of the aforesaid notification of retirement of one Rahimullah Assistant Director	"O"	80-82
16.	Copy of the notification dated 09.05.1978	"P"	83-85
17.	Copy of Judgment of this Hon'ble Tribunal is produced & while that of the August Supreme Court of Pakistan	"Q & R"	86-97
18.	Copy of similar nature decision of various court	"S to T"	98-105
19.	Copy of promotion orders with retrospective/antedated	"U"	106-108
20.	Copy of supreme court judgment CP 35-P/2007	"V"	109-113
21.	Copy of judgment No.612/2008	"V-2"	114-119
22.	WakalatNama		120

Dated: 18/05/2023

Appellant

Through


Mehboob Ali Khan Dagai
 Advocate, High Court,
 Peshawar

(1)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

In Service Appeal No: 891 /2023

Sherullah, Ex-Assistant Director (Admn), Directorate of
Elementary & Secondary Education, Khyber
Pakhtunkhwa, Peshawar.

.....Appellant

VERSUS

1. Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. Secretary Elementary & Secondary Education,
Government of Khyber Pakhtunkhwa at Civil
Secretariat, Peshawar.
3. Director Elementary & Secondary Education, Khyber
Pakhtunkhwa Peshawar.

.....Respondents

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL
ACT 1974 AGAINST THE NOTIFICATION
BEARING ENDST NO.: SO(PE)2-6 DPC
MEETING/B&AO, FROM BPS-16 TO BPS-17
DATED 29.08.2014, WHEREBY THE
APPELLANT WAS PROMOTED FROM BPS-
16 TO BPS-17 AS ASSISTANT DIRECTOR
FROM IMMEDIATE EFFECT I.E 29.08.2014
INSTEAD OF 09.03.2006, THE DATE OF
AVAILABILITY OF VACANCY AND THE
NOTIFICATION NO.9-1 DATED 28.03.2023,**

2

WHEREBY, AS PER THE DIRECTIONS OF
THIS AUNGUST TRIBUNAL VIDE
JUDGMENT DATED 27.02.2023 IN APPEAL
NO.4981/21, THE DEPARTMENTAL
REPRESENTATION OF THE APPELLANT
WAS DISMISSED.

Respectfully Sheweth,

FACTS

1. That the appellant joined services as Junior Clerk with the respondents department on 20.04.1980.
2. That the appellant was promoted step by step to the post of budget and accounts officer. (Copy of promotion order is attached as Annex "A").
3. That the appellant stood at Serial No.2 of the seniority list of B&AO corrected upto 31.08.2013. (Copy of seniority list is attached herewith as annexure "B").
4. That the appellant was allowed selection grade from BPS-16 to BPS-17 w.e.f. 30.10.1993. (Copy of the notification is attached as annexure "C").
5. That under the provision of Govt: of Khyber Pakhtunkhwa Civil Servant (Appointment and Transfer Rules 1989, issued vide notification No. SO (PE) 4-10/SSC (Ministerial Staff/2013 dated 28.01.2013, the vacant posts of Assistant Director (F&A/Admn) BPS-17 must be filled up, out of budget and accounts officer through

3

promotion on the basis of seniority cum-fitness. (Copy of notification is attached as annexure "D").

6. That the post of Assistant Director (Admn) & Assistant Director F&A BPS-17 remained occupied by Junior most superintendents / officers of the department and despite of repeated requests of the appellant for his promotion, the respondents always turned deaf ears. (Copy of the order of most senior super indents & request of the appellant are annexure "E").
7. That the post of Assistant Director was vacant and the appellant promotion under the law was due w.e.f. the date of vacation of posts but the appellant was promoted to the posts of Assistant Director BPS-17 on 29.08.2014 vide order No.SOPE/2-6/DPC Meeting / B&AO from BPS-17/2014 dated 29.08.2014, which is against the rights of the appellant. (Copy of the notification is attached as annexure "F").
8. That feeling aggrieved the appellant while in service filed departmental appeal before the Secretary to Govt: of Khyber Pakhtunkhwa Peshawar on 01.07.2015, but no response whatsoever was received, so the appellant filed appeal No.1068/2015, before this Hon'ble Tribunal, which was contested by the respondents by filing written reply etc. (Copy of the departmental appeal, reply and re-joinder etc are attached herewith as annexure "G, H & I").
9. That after hearing arguments of both the counsel for the parties, this Hon'le Tribunal

9

vide its judgment and order dated 09.04.2019, the case was remanded to the appellate authority for decision of the departmental appeal of the appellant with speaking order. (Copy of the judgment of this Tribunal is attached herewith as annexure "J").

10. That since the respondents were reluctant to decide the departmental appeal of the appellant as per directions of this Hon'ble Tribunal, therefore, the appellant filed an execution petition before this August Tribunal on 02.10.2020 and it was on 01.04.2021 when the respondent No.2 produced, before this Hon'ble Tribunal, the copy of the orders of rejection of departmental appeal of the appellant on 22.03.2021, feeling aggrieved the appellant re-filed the appeal No.4981/21, which was decided on 27.02.2023 with the directions to the respondents that the departmental representation of the appellant be properly decided within the period of 30 days. (Copies of the previous appeal, judgment and order are attached herewith as annexure "K" "L" & "M").

11. That vide notification bearing endorsement No.9-1 dated 28.03.2023, again the respondents dismissed the aforesaid departmental representation of the appellant. Though the same was not officially conveyed to the appellant till date but unofficially, the copy of the said notification, through his own source, was received by the appellant on 15.04.2023, feeling aggrieved, the instant appeal inter alia on the following grounds amongst

5

other. (Copy of notification is attached as annexure M/1).

GROUNDS:-

- A. That the order of rejection of departmental representation dated 28.03.2023 is in vogue, hasty in manner and not sustainable in the eye of law in any manner whatsoever.
- B. That the concerned authority while deciding the departmental representation of the appellant have relied upon a letter bearing No.4404 dated 10.12.2019 of the Director Education Khyber Pakhunkhwa Peshawar but have intestinally ignored the most cogent and comprehensive and impartial letter bearing endst: No.4393 dated 30.09.2019 and No.2695 dated 25.02.2020, again sent by the director Education Khyber Pakhtunkwha Peshawar respondent No.3 the Secretary Education Khyber Pakhtunkwha Peshawar respondent No.2 to the effect that the reference quoted in his letter No.4404 dated 10.12.2019 against Sherullah case are given in over sight, as actually these are in favour of said Sheraullah (Copies of the aforesaid letters are attached as annexure "N").
- C. That the second ground taken by the respondent No.3 in his notification dated 28.03.2023 with regard to devolution is not correct because the said devolution plan relates to the district cadre post, whereas, the post of Assistant Director Admn: relates to the provincial cadre and that the case of appellant falls within the provincial level.

(6)

D. That the respondents in their notification dated 28.03.2023, have admitted to the effect that the services rules of 1978 were superseded by that the service rules promulgated on 28.01.2013, meaning thereby that service rules 1978 were correctly in field, prior to the service rules 2013, which are applicable to the case of the appellant. That the department has already made promotions of other cadres during the period identified in the notification No.9-1 dated 28.03.2023 but only this AD post promotion was not exercised to cover up the illegal occupations of juniors on these AD posts because of nepotism.

That the Department has concealed the facts about bifurcation story of different directorates as the ministerial cadres posts promotions were entirely ever run by one directorate and were never affected by different directorates.

E. That the vacancy for promotion of the appellant on the fateful date i.e on 09.03.2006 was available when one Rahimullah Assistant Director was retired at the age of superannuation and the respondents kept this vacancy occupied by most junior superintendents because of favoritism/nepotism and person likes and dislikes and this fact further supported by para No.3 & 4 of the notification dated 28.01.2013 by the respondents. (Copy of the aforesaid notification of retirement of one Rahimullah Assistant Director is attached herewith as annexure "O").

F. That under the law and rules and decisions of the Apex Courts on the subject, the

appellant was entitled for promotion to the post of BPS-17 Assistant Director from the date of vacation of post i.e 09.03.2006 as per promotion criteria. (Copy of the notification dated 09.05.1978 is attached herewith as annexure "P").

G. That the act of respondents, ignoring the right of promotion of appellant from actual date i.e the date of vacation of post of Assistant Director BPS-17 is against law, perverse, arbitrary, in-operative and ineffective upon the rights of the appellant and based on malafide, surmises and conjectures.

H. That similar cases on the same prayer titled "Ghulam Rasool V/S Director of School & Literacy NWFP Peshawar etc" were decided by this August Tribunal on 18.08.2006 which in appeal before the August Supreme Court of Pakistan, got its finality. (Copy of Judgment of this Hon'ble Tribunal is produced & while that of the August Supreme Court of Pakistan are attached as annexure "Q" & R").

I. That similar nature of case are also produced as annexure "S to T".

J. That similarly vide order baring endst No. 7174-85 dated 03.05.2000 & No.3461 dated 27.11.1996 various Clerks were promoted to the post of Senior clerks with retrospective effect promotion was given to them from the date of availability of vacancy and not from immediate effect. (Copy of promotion orders with retrospective/antedated dates are annexure "U").

(8)

~~77~~ That the appellant has already got selection grade BPS-17 since 1993 and crossed the ceiling of BPS-17 and got several personal pay equal to annual increments, rising his pay equal to BPS-18, the appellant has already received pay and allowances in PBS-17 with effect from 1993 till 2015 and as such on antedation his promotion from 09.03.2006 but only increments will be given and his pension revised and no 3rd party is effecting due to his antedation.

R

K. That the Hon'ble Supreme Court has been pleased to direct vide CP 35-P/2007 "THAT THE GOVT EMPLOYEES ARE ALWAYS ANXIOUS ABOUT THEIR PROMOTION OR TO GOT BENEFIT OF THEIR SERVICE AS EARLY AS COULD BE POSSIBLE AND THE DEPARTMENT CAN NOT BE ALLOWED TO SLEEP FOR ANY INDEFINITE PERIOD, annexure "V").

L. That the directions of this Hon'ble Tribunal in Appeal No.612/2008, copy attached vide No.4 (ii) above are very clear which are reproduced as "That Antedating, of promotion, after such promotion after he was found eligible and fit for such promotion and is promoted, is an established principal of law. Such candidate cannot be punished for any delay caused by the department in processing his case for promotion. The order of promotion, therefore has to be antedated to the date on which the vacancy for his turn became available." (Copy of judgment No.612/2008 is attached herewith as annexure "V-2").

(9)

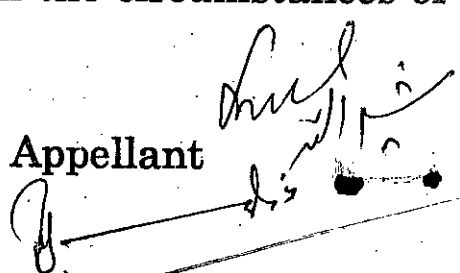
It is, therefore, most humbly prayed that on acceptance of the instant Service Appeal, the respondent may kindly be directed for antedating the promotion of the appellant w.e.f 09.03.2006 i.e from the date of availability of vacancy instead of 29.08.2014 (i.e the date of passing of impugned notification) with all back benefits.

Any other relief not specifically asked for may also graciously be extended in favor of the Appellant in the circumstances of the case.

Dated : 18/04/2023

Appellant

Through


Mehboob Ali Khan Dagai
Advocate, High Court,
Peshawar

Certificate:-

No such like Service Appeal for the same Appellant upon the same subject matter has earlier been filed, before this Hon'ble Tribunal as per instruction of my client.


ADVOCATE

10

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

In Service Appeal No-_____/2023

Sherullah, Ex-Assistant Director (Admn)

Versus

Chief Secretary Khyber Pakhtunkhwa Peshawar & Others

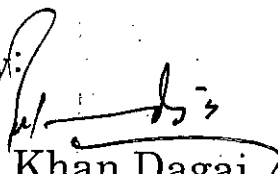
AFFIDAVIT

I, Sherullah, Ex-Assistant Director (Admn),
Directorate of Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar, do hereby solemnly
affirm & declare on oath that all contents of the instant
Service Appeal are true & correct to the best of my
knowledge and belief & nothing has been concealed from
this Hon'ble Tribunal.



DEPONENT

Identified By:


Mehboob Ali Khan Dagai
Advocate, High Court,
Peshawar.

(11)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Sherullah, Ex-Assistant Director (Admn)

Versus

Chief Secretary Khyber Pakhtunkhwa Peshawar & Others

ADDRESSES OF PARTIES

ADDRESS OF APPELLANT

Sherullah, Ex-Assistant Director (Admn), Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

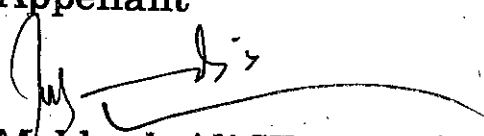
ADDRESSES OF RESPONDENTS

1. Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. Secretary Elementary & Secondary Education, Government of Khyber Pakhtunkhwa at Civil Secretariat, Peshawar.
3. Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar

Dated: 18/04/2023

Through

Appellant


Menboob Ali Khan Dagai
Advocate, High Court,
Peshawar.

قیمت
50 روپے

70479



ایڈویکٹ: ذیل
بار کونسل ایسوسی ایشن نمبر: 262-09-09
رابطہ نمبر: 03119418118

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: حسین پختونخوا مسٹر وکیل

دعویٰ: <u>Services Appeal</u>	منجانب: <u>حسین والہ صاحب</u>
علت نمبر: _____	
مورخہ: _____	
جرم: _____	
تھانہ: _____	

حسین والہ صاحب
بنام
سپریم کورٹ

باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی کی وجواب دہی کارروائی متعلقہ ذیل
آن مقام ذیل کے لیے ذیل کے لیے ذیل کو وکیل مقرر
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سٹڈر ہے

المرقوم: 17/4/23

الع بد واہ شد الع بد

مقام ذیل کے لیے منظور ہے۔ Acceptance

ذیل
Adv.

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

Supdt. Promotion (Now called)

DIRECTOR SECONDARY EDUCATION, N.W.F.P. PESHAWAR.

Promotion order as Bx Aso / ADEO (A)

S.No.22 P76

NOTIFICATION.

The following promotions/transfers/adjustments of Ministerial Staff of Education Deptt: NWFP are hereby ordered in the interest of public service with immediate effect

No.	Name & Designation/address.	adjusted at	Remarks.
	Mr. Mohammad Amin, ASDEO (A) at SDEO (M) Alpural (Swat).	I/CADEO (A) at DEO (F) Secy:Karak.	on his own pay & grade Vice S.No. 4
	Mr. Noor Ellahi, ADEO (A) at DEO (F) Pry: Mardan.	ADEO (A) at DEO (M) Secy:Mardan.	against vacant post.
	Mr. Zaristan, ADEO (A) at DEO (M) Secy: Chitral.	ADEO (A) at DEO (F) Pry: Swabi.	-do-
	Mr. Ali Gul, ADEO (A) at DEO (F) Secy: Karak.	ADEO (A) at DEO (M) Secy: Banmu.	-do-
	Mr. Mohammad Anwar, Supdt: at DEO (M) Pry: Dir (on return from Leave)	Supdt: at Directorate Pry: Edu: NWFP Peshawar.	Vice S.No. 6
	Mr. Gul Habib, Supdt: at Dte: Pry: Edu: NWFP Peshawar.	Supdt: at D.D.E. (S) Peshawar Div:	Vice S.No. 22
	Mr. Ghulam Hussain, Supdt: at D.D.E (S) Kohat.	Supdt: at D.D.E. (S) D.I.Khan Div:	Vice S.No. 19
	Mr. Iqbal Javed, Supdt: at DEO (M) Pry: Karak.	Supdt: at G.D.C. (W) D.I. Khan.	Vice S.No. 18
	Mr. Abdur Razaq, Supdt: at DEO (M) Secy: Chitral.	Supdt: at DEO (F) Secy: DIKhan.	Vice S.No. 27
	Mr. Mohammad Lisan, Supdt: at D.S.E. NWFP, Peshawar.	Supdt: at DEO (M) Secy: Peshawar.	Vice S.No. 24.
	Mr. Ghanso Mohammad, Supdt: at G.G.C. Abbottabad.	Supdt: at Govt: College Peshawar.	Vice S.No. 26.
	Mr. Rehman Gul, Supdt: at DEO (M) Pry: Dir at: Timergara.	Supdt: at D.S. (C) N.W.F.P. Peshawar.	Vice S.No. 28
	Mr. Abdul Jalil, Supdt: at G.I.G.C. Kohat.	Supdt: at D.E. (C) NWFP, Peshawar.	Vice S.No. 15
	Mr. Ghulam Sarwar, Supdt: at DEO (M) Secy: Abbottabad.	Supdt: at DEO (F) Pry: Abbottabad.	Vice S.No. 21.
	Mr. Wazir Mohammad, Supdt: at D.E. (C) NWFP, Peshawar.	ASDEO (A) at SDEO (M) Chitral.	against vacant post.
	Mr. Faisal Imran, Supdt: at G.C. Nowshera.	ASDEO (A) at SDEO (F) Chitral.	-do-
	Mr. Gul-e-Sadbag, Supdt: at DEO (M) Pry: Bunner.	ASDEO (A) at SDEO (M) Daggar at Bunner.	-do-
	Mr. Mohammad Tariq, Supdt: at G.G.D.C. No. 1 D.I. Khan.	ASDEO (A) at SDEO (F) Tank. (DIKhan).	-do-
	Mr. Imam Bakhsh, Supdt: at DDE (S) DI. Khan.	ASDEO (A) at SDEO (M) Tank (DIKhan).	-do-
	Mr. Mir Ahmed, Supdt: at DEO (F) Secy: Dir (Timergara)	ASDEO (A) at SDEO (Male) Dir.	-do-
	Mr. Iltaf Hussain GoMar at DEO (F) Pry: A/Abad.	ADEO (A) at DEO (F) Primary Abbottabad.	against vacant post.

9/15

46. Mr. Shah Rawan, ASDEO (A) at S.D.E.O. (M) Timergara. A.S.D.E.O. (A) at SDEO (M) Alpuri (Swat). Vice S.No. 1
47. Mr. Said Rehman, ADEO (A) at DEO (F) Secy: Malakand. A.S.D.E.O. (A) at SDEO (F) Saidu Sharif (Swat). Vice S.No. 48
48. Mr. Fazli Karim Jan, ASDEO (A) at SDEO (F) S/Sharif (Swat). ADEO (A) at DEO (F) Secondary Malakand. Vice S.No. 47.

Note :- 1/- Charge reports should be sent to all concerned.
2/- The promotion of the officers/officials mentioned at Sr:No. 15 to 45 has been approved by the Departmental Promotion Committee of Education Deptt: in its meeting held on 13-5-1992 under the Chairmanship of Secretary to Govt: of NWFP, Education Deptt:.

(Mohammad Rafique Khan Jadoon)
Director Secondary Education,
N.W.F.P. Peshawar.

EndstNo. 4031-4150//A-23/Promotion/II.A.E. Dated Pesh: the 27/5/1992
Supds: ADEO's (A)

Copy forwarded for information and necessary action to the :-

- 1/- Accountant General, N.W.F.P. Peshawar.
- 2/- Director of Education (Colleges) NWFP, Peshawar.
- 3/- Director of Education (FAT) NWFP, Peshawar.
- 4/- Director Bureau of Curr: Dev: & Edu: Ext: Services, NWFP, A/Abad.
- 5/- Director Primary Education NWFP (Hayatabad) Peshawar.
- 6/- Addl: Directress (Schools) NWFP, Peshawar.
- 7/- Divl: Directors of Education (Schools) concerned.
- 8/- District Education Officers (M&F) Secondary concerned.
- 9/- District Education Officers (M&F) Primary concerned.
- 10/- Sub: Divl: Education Officers (M&F) concerned.
- 11/- Principals Govt: Colleges (Male & Female) concerned.
- 12/- District/Agency Accounts Officers concerned.
- 13/- Officers/officials concerned.
- 14/- P/S to Minister for Education & Sports, NWFP Peshawar.
- 15/- P/S to Secretary to Govt: of NWFP Education Deptt:.
- 16/- Section Officer (Directives) Govt: of NWFP Education Deptt:.
- 17/- P/Files.
- 18/- M/File.
- 19/- P.A. to Director Secondary Education, NWFP Peshawar.

Deputy Director (Secondary)
For/Director Secy: Edu: NWFP,
Peshawar.

S. Musharaf Ali/
May 27, 1992.

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER
PAKHTUNKHWA PESHAWAR.

NOTIFICATION.

Final List of Budget & Accounts Officer (BPS-16) working in and under the Directorate Elementary & Secondary Education, DCTE, FATA & PITE, Khyber Pakhtunkhwa, as stood on 31-08-2013 is hereby approved.

The said seniority list was hereby notified for the information of all concerned to lodge appeal /objection (if any).

The above seniority list can be seen/checked on the website of E&SE Department Khyber Pakhtunkhwa given below: -

<http://kpese.gov.pk>

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Endst No 3638-59/F.No.A-23/S.List/B&AO/DD(F&A) Dated Pesh the 25/2/2014.

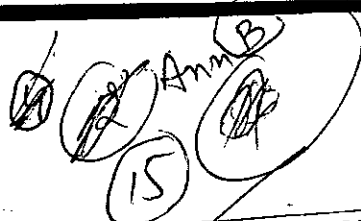
Copy of the above is forwarded for information and n/action to the:-

1. Director Curriculum & Teachers Education Khyber Pakhtunkhwa Abbottabad.
2. Director PITE Peshawar.
3. Director of Education (FATA) Peshawar.
4. All District Education Officers (M&F) in Khyber Pakhtunkhwa.
5. Cashier Local Directorate.
6. P/S to Secretary to Government of Khyber Pakhtunkhwa E&SE Department Peshawar.
7. Deputy Director EMIS Govt of Khyber Pakhtunkhwa E&SE Department with the request to up-load the attached Seniority List of Assistants and Senior Scale Stenographer on web page of E&SE Department.
8. PA to Director E&SE Khyber Pakhtunkhwa, Peshawar.

Deputy Director (F&A)
(E&SE) Khyber Pakhtunkhwa Peshawar

213/Agg 326/18
1067/6 Jun 2015
1068/2015

Argumente
25/2/14



 ✓ DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR.

 FINAL SENIORITY LIST OF BUDGET & ACCOUNT OFFICERS (B/16) IN AND UNDER THE DIRECTORATE OF ELEMENTARY & SECONDARY

 EDUCATION DEPARTMENT KHYBER PAKHTUNKHWA PREPARED UPTO 31.8.2013

Sl#	Name of Officer	Father's Name	Place of present Posting	Academic Qualification	Date of Birth	Domicile	Date of 1st entry into Govt- Service	Regular Promotion to the Present Post	Remarks
1	Ghulam Sarwar	Muhammad Suleman	DEO (M) A/Abad	BA	06-03-1956	Abbottabad	01-02-1979	11-01-1988	By Promotion
2	Sherullah	Karim Ullah	DEO (F) Mardan	BA	13-11-1955	Mardan	20-04-1980	01-06-1992	By Promotion
3	Umar Nawaz	Muhammad Salim Khan	DEO (M) Bannu	M.com	01-01-1961	Bannu	13-10-1984	25-01-2001	By Promotion
4	Musharaf Ali	Murtaza Ali	DE & SE Khyber Pakhtunkhwa Peshawar	BA	22-07-1962	Peshawar	04-03-1985	25-01-2001	By Promotion
5	Nasir Khan	Aminullah	DEO (M) NSR	BA	10-05-1960	Swabi	19-02-1979	31-07-2013	By Promotion
6	Muhammad Azam	Khalil-ur-Rehman	D C TE A/Abad	MA	01-01-1961	Mansehra	08-08-1979	31-07-2013	By Promotion
7	Inamullah	Muhammad Bakhsh	DEO (M) D/I/Khan	M/BA	01-01-1956	D/I/Khan	11-07-1974	31-07-2013	By Promotion
8	Muhammad Ayub	Munir Khan	DEO (M) Haripur	BA	04-03-1954	Haripur	12-08-1973	31-07-2013	By Promotion
9	Sadiqullah	Amanullah	DEO (M) Chitral	Matric	06-01-1960	Chitral	25-08-1987	31-07-2013	By Promotion
10	Karim Shah	Wadan Shah	DEO (M) Mardan	BA	20-02-1958	Mardan	01-09-1987	31-07-2013	By Promotion
11	Adalat Khan	Mehbaran Shah	DEO (F) Charsadda	BA	02-01-1964	Peshawar	01-09-1987	31-07-2013	By Promotion
12	Taza Khan	Sargand Khan	DEO (F) Dir Lower	BA	15-06-1955	Dir	20-10-1979	31-07-2013	By Promotion
13	Ghulam Sarwar	Misri Khan	DCTE Abbottabad	MA	16-11-1956	Abbottabad	04-11-1979	31-07-2013	By Promotion
14	Zakir Khan	Faqir Khan	DEO (F) Abbottabad	Matric	03-01-1957	Abbottabad	21-03-1979	31-07-2013	By Promotion
15	Fazal Shah	Fazali Karim	DEO (F) Peshawar	Matric	03-01-1957	Peshawar	05-02-1981	31-07-2013	By Promotion
16	Munirullah Shah	Mian Dilbar	DEO (F) Hangu	BA	20-05-1957	Peshawar	20-12-1989	31-07-2013	By Promotion
17	Muhammad Ali	Lal Sardar	DEO (M) Hangu	BA	06-01-1964	Peshawar	20-12-1989	31-07-2013	By Promotion
18	Waliullah	Abdul Qahar	DEO (M) Swabi	BA	02-12-1966	Karak	20-12-1989	31-07-2013	By Promotion
19	Mr. Sultan Ahmad	Rab Nawaz	DEO (F) DIK	MA	01-04-1954	Swabi	31-05-1973	31-07-2013	By Promotion
20	Amin Jan	Saadullah Jan	DEO (M) Peshawar	BA	04-05-1954	D.I.Khan	03-05-1973	31-07-2013	By Promotion
21	Shamsul Islam	Sher Aziz	DEO (F) DIK	FA	03-01-1966	Peshawar	22-12-1990	31-07-2013	By Promotion
22	Rehmatullah	Niamat Ullah	DEO (M) Peshawar	BA	03-01-1966	Peshawar	22-12-1990	31-07-2013	By Promotion
			DEO (F) D.I.Khan	Matric	19-04-1954	Chitral	01-01-1974	31-07-2013	By Promotion
			DEO (F) Tank	Matric	01-05-1954	D/I/Khan	01-06-1974	31-07-2013	By Promotion

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23	Zarif Khan	Muhammad Usman	DE (FATA)	Matric	21-1-1955	Peshawar	01-06-1974	31-07-2013	By Promotion
24	Muhammad Zahoor	Abdul Ghaffar	DEO (F) Malakand	Matric	04-3-1955	Malakand	17-07-1974	31-07-2013	By Promotion
25	Latifur Rehman	Hamayun	DEO (F) Chitral	Matric	15-5-1954	Chitral	10-01-1974	31-07-2013	By Promotion
26	Shafqat Malik	Gulistan	DEO (F) Haripur	Matric	01-02-1956	Abbottabad	10-03-1974	31-07-2013	By Promotion
27	Liaqat Ali	Nousher Khan	DEO (M) Buner	Matric	09-04-1954	Mardan	15-10-1974	31-07-2013	By Promotion
28	Muhammad Ali	Fateh Muhammad	DEO (F) Battagram	Matric	04-04-1954	Mardan	11-01-1974	31-07-2013	By Promotion
29	Muhammad Amin	Rehmani Gul	DEO (M) Swat	Matric	25-1-1954	Swat	11-04-1974	31-07-2013	By Promotion
30	Abdul Majeed	Muhammad Khan	DEO (F) Kohat	Matric	12-02-1956	Kohat	12-04-1974	31-07-2013	By Promotion
31	Abdur Rashid	Mudasir Shah	DEO (F) NSR	Matric	12-02-1956	Mardan	01-02-1974	31-07-2013	By Promotion
32	Zahoor Ali	Habib Khan	DEO (M) Karak	Matric	06-02-1955	Peshawar	16-01-1975	31-07-2013	By Promotion
33	Khog Badshah	Abdul Mutalib	DEO (M) Shangla	Matric	16-02-1955	Malakand	03-01-1975	31-07-2013	By Promotion
34	Haroonur Rashid	Maqbulur Rehman	DEO (M) Battagram	Matric	11-02-1957	Haripur	29-06-1975	31-07-2013	By Promotion
35	Fazali Rehman	Ainul Qazat	DEO (F) Lakki	Matric	05-10-1955	Chitral	07-01-1975	31-07-2013	By Promotion
36	Ubaidullah	Abdullah Jan	DEO (M) Kohat	Matric	07-11-1956	Kohat	07-12-1975	31-07-2013	By Promotion
37	Walayat Khan	Baz Muhammad	DEO (M) Mansehra	Matric	15-11-1956	Peshawar	09-11-1975	31-07-2013	By Promotion
38	Faridullah	Fatehullah	DE FATA Peshawar	Matric	06-12-1956	Peshawar	13-09-1975	31-07-2013	By Promotion
39	Ihsanullah	Hanimullah	DEO (F) Buner	Matric	03-01-1958	Mardan	18-09-1975	31-07-2013	By Promotion
40	Abdul Sattar	Abdul Rashid	DEO (F) Shangla	Matric	04-01-1957	Swat	15-10-1975	31-07-2013	By Promotion
41	Adam Sher	Juma Gul	DEO (M) Dir	Matric	02-11-1953	Dir	17-11-1975	31-07-2013	By Promotion
42	Jamilur Rehman	Khalilur Rehman	DEO (F) Mansehra	Matric	15-01-1956	Mansehra	17-11-1975	31-07-2013	By Promotion
43	Ghulam Muhammad	Muhammad Umer	DEO (M) Torghar	Matric	15-11-1955	Malakand	20-11-1975	31-07-2013	By Promotion
44	Jehan Zeb	Abdur Rehman	DEO (F) Swabi	BA	02-03-1961	Swabi	08-10-1981	31-07-2013	By Promotion
45	Mukhtiar Khan	Ghulam Sarwar	DEO (M) Charsadda	BA	16-10-1962	Peshawar	17-10-1981	31-07-2013	By Promotion

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[Signature]
Director Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Annex (17)

(17)

ANNEXURE-G

OFFICE OF THE DIRECTOR (E&SE) KHYBER PUKHTOON KHWA
PESHAWAR.

Corrigendum.

In pursuance of NWFP Services Tribunal Peshawar judgment dated 15.8.2006 up hold by the Hon.able Supreme Court of Pakistan vide its verdict dated 5.3.2010 and Write Petition No.35-P To: S.I-P and CP.301-P of 2007, and under the provision of Finance Department Notification No.FD/(PRC)4-1/91, dated 30.10.1993 and (E&SE)department circular No.604-754 dated 7.5.2002, the date of award of S/Grade (B-17) of the ADEOs./ASDEOs./Acs./Admn. officers/B&AOs./Supdt.(B-16) working in Directorate of (E&SE) K.P.K. Peshawar and districts officers issued vide this office Notification No.4420-4585/A-23/MS/S/Grade(B-17)/Supdt/AO/ dated 29.9.2004 may read as "30.10.1993" instead of "19.7.1999" in column No.6 of the above order on the same terms and conditions already framed.

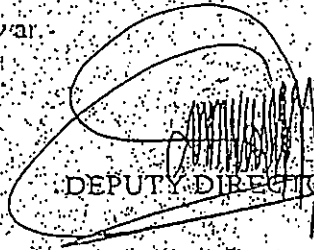
SYEDA SARWAT JEHAN
DIRECTRESS

3410-24

Endst.No. _____ I/DSR/Eatt.B.P./Litigation dated 26/4/2010

- Copy of the above is forwarded for information and necessary action to the:-
1. Registrar Supreme Court of Pakistan with reference to his decision/judgment dated refer to above for information please
 2. Registrar NWFP Services Tribunal Peshawar with reference to his judgment referred to above for information please
 3. Secretary to Govt. of E&SE K.P.K. Peshawar
 4. Accountant General K.P.K. Peshawar
 5. Director of Education (FATA) Peshawar
 6. Director Higher Education K.P.K. Peshawar
 7. Director of Curriculum and Teachers Education K.P.K. Abbott Abad
 8. Manager BIEP Arbab Road University Town Peshawar
 9. Manager Girls Project II K.P.K. Peshawar
 10. Section Officer (Litigation) E&SE Department K.P.K. Peshawar
 11. All District Accounts Officers in K.P.K.
 12. All Executive District Officers in K.P.K.
 13. All officers concerned.
 14. P.A. to Director of E&SE K.P.K. Peshawar

A. Brestal
A. Mawate


26/4/2010
DEPUTY DIRECTOR (E&A)

SNO.56

Amma

B

OFFICE OF THE DIRECTOR SECRETARY EDUCATION NWFP PESHAWAR
 NOTIFICATION/S/GRADE.

Consequent upon the approval of Departmental

Promotion Committee in its meeting held on 12/12/2001, the following AEDO(A)/Budget Officer, Audit Officer, Accounts Officer BPS NO.16 of Education Department are hereby placed in B-17, Selection Grade 33% of the total posts of AEDO(A) under the provision of FD Notification FD(PRO)4-1/91 dated 30-10-93 with effect from the date mentioned against each:-

SNO/Serial	Name & Father's Name	Date of S/G awarded.
1/	Mian Dad S/O Sikander E.D.O. (S&L) Haripur (Rtd: 26.2.01)	19.07.1999.
2/	Fida Muhammad S/O Sher Mohd (Rtd on 13.5.2001) Dir: Colleges NWFP Peshawar.	-do-
3/	Abdul Malik S/O Darwiza Khan EDO (S&L) Dir at T-Gara. (Rtd: 6/10/01)	-do-
4/	Rahim Ullah S/O Karimullah Dir: Primary Edu: NWFP Pesh:	-do-
5/	Ali Ashgar S/O Rehmatullah E.D.O. Abbottabad (S & L)	-do-
6/	Abdur Rehman S/O Ghulam Haider E.D.O. (S & L) Abbottabad. (Rtd: 9/5/00)	-do-
7/	Fazli Rehman S/O Khaista Khan E.D.O. (S&L) Chitral.	-do-
8/	Muhammad Nadar S/O Mir Jan E.D.O. (S & L) Bannu.	-do-
9/	Abdur Rashid S/O Abdul Wasi (Rtd on 11.2.01) D.D.O (Female) Peshawar.	-do-
10/	M-Muhammad Dilbar S/O Mian Basher Suitable E.D.O. (S&L) Swat (Rtd: 2/3/01). wcf 20.2.01	-do-
11/	Said Rehman S/O M-Afzal Khan E.D.O. (S&L) Swat	-do-
12/	Muhammad Shuaib S/O Matiullah E.D.O. (S&L) Buner (Rtd: 9/2/2000).	-do-
13/	Shah Pawan S/O Abdul Qadir E.D.O. (S & L) Swat	-do-
14/	Muhammad Zarin S/O Muhammad Rahim E.D.O. (S & L) Swat (Rtd on 1/8/99)	-do-
15/	Abdul Ghaffar S/O Firdous Khan E.D.O. (S&L) Malakand	Suitable wcf 7.99
16/	Rajab Din S/O Barkat Ali E.D.O. Kohat (S&L)	-do-
17/	Gul Rehman S/O Muhammad Suleman R.D.E (NWFP) Pesh (Rtd: 16/6/2001).	-do-
18/	M-Hafeezur Rehman S/O Abdur Rehman E.D.O. (S&L) Lakki.	-do-

Approved
 M. S. S.
 Director

		S/awarded	
.....2.....		99.	
11.	Ghulam Rasool S/O M. Amir Khan S.O. (S&L) Bunir (Rtd:)	-do-	
12.	Mohammad Tawab S/O Abdul Wahab. E.D.O. (S&L) Mardan. (Rtd: 10/12/99)	-do-	
13.	Ali Safdar S/O Guli. Sodburg E.D.O. (S&L) Malakand	-do-	
14.	Ghulam Sarwar S/O Muhammad Suleman E.D.O. (S&L) Abbottabad.	-do-	
15.	Ghulam Nabi S/O Abdul Hanan E.D.O. (S&L) Peshawar.	-do-	
16.	M. Umar Mirza S/O M- Najamuddin E.D.O. D.I. Khan (Rtd: 5/8/2000)	-do-	
17.	Iqbal Hanan S/O Gul Sattar E.D.O. (S&L) Karrak	-do-	
18.	Muhammad Yousaf S/O Gul Muhammad E.D.O. (S&L) Dir at T/Gara.	-do-	
19.	Azad Khan S/O Faqir Ghulam E.D.O. (S&L) Bannu.	-do-	
20.	Muhammad Yousaf S/O Muhammad Remzan E.D.O. (S&L) Tank	-do-	
21.	Fazal Subhan (Late) S/O Fazli Rehman Pry: Edu: Girl Proj: -II NWFP Pesh:	-do-	
22.	Fazli Rehman S/O Mula Bakhsh E.D.O. (S&L) Haripur	-do-	
23.	Mukhtiar Ahmad S/O Israr Muhammad E.D.O. (S&L) Peshawar (Rtd: 13.11.01)	-do-	
24.	Muhammad Ali S/O Musafar Jan E.D.O. (S&L) Swat	-do-	
25.	Muhammad Ayaz S/O Muhammad Farid E.D.O. (S&L) Charsadda.	-do-	
26.	Mubarak Ahmad S/O Nazar Muhammad S.O. (P&D) Civil Secretariate, NWFP	-do-	7
27.	Muhammad Khan S/O Faqir Muhammad Audit Officer at Dir: Secy: Edu: NWFP Pesh:	-do-	7
28.	Fazli Manan S/O Fazli Hanan E.D.O. (S&L) Swat	-do-	7
29.	Izzat Ullah S/O Hidayat Ullah E.D.O. (S&L) Chitral	-do-	7
30.	Sardar Muhammad S/O Hussain Muhammad E.D.O. (S&L) Malakand	-do-	7
31.	Ghulam Muhammad S/O Said Ghulam E.D.O. (S&L) Swabi) Rtd: on 2/12/99	-do-	7
32.	Ghulam Hussain S/O Safid Khan E.D.O. (S&L) Chitral (Rtd: 10/2/2001)	-do-	7
33.	Buzur Jamher S/O Ghani Khan E.D.O. (S&L) Lakki	-do-	7
34.	Abdul Quddus S/O Abdul Manan D.D.O. (Female/Pry:) Peshawar.	-do-	7
35.	Ghulam Farid S/O Ghulam Rasool E.D.O. (S&L) D.I. Khan	-do-	7
36.	Muhammad Suleman S/O Mir Zaman Bureau T&E NWFP Abbottabad	-do-	7

⑦

19

Attestd.
Amoate

~~(S)~~ ~~(S)~~ ~~(S)~~ 20

46. Zahid Khan S/O Ibrahim Khan
Dir: Colleges NWFP Peshawar -do-
47. Muhammad Fasih S/O Muhammad Farid
E.D.O. (S&L) Haripur (Rtd: 31/12/99) -do-
48. Karim Bakhsh S/O Khuda Bakhsh
E.D.O. (S&L) D.I. Khan -do-
49. Sajjad Ahmad S/O Imran Muhammad
Middle School Project NWFP Pesh: -do-
50. Subidar Khan S/O Mohidud Din
E.D.O. (S&L) Nowshera. -do-
51. Muhammad Saeed S/O Abdul Qayum
Dir: Colleges NWFP Peshawar. -do-
52. Gul Sadburg S/O Said Akbar
E.D.O. (S&L) Mardan -do-
53. Muhammad Tariq S/O Muhammad Remzan
E.D.O. (S&L) D.I. Khan -do-
54. Imam Bakhsh S/O Muhammad Bakhsh
E.D.O. (S&L) D.I. Khan -do-
55. Iltaf Hussain S/O Amir Alam
E.D.O. (S&L) Abbottabad -do-
56. SherUllah S/O Karim Ullah ✓
E.D.O. (S&L) Mardan. -do-
57. Jamshad Jan S/O Muhammad Nazir
E.D.O. (S&L) Charsadda -do-
58. Zabihullah S/O Abdullah
Directorate of Secondary Edu: NWFP Pesh: -do-
59. AmanUllah S/O Rehmatullah
E.D.O. (S&L) Charsadda -do-
60. ✓ Muhammad Afsar Khan S/O S-Mehbaran Shah
E.D.O. (S&L) Mardan -do-
- 70 — 61. ✓ Allah Nawaz S/O Allah Dad Khan
E.D.O. (S&L) D.I. Khan -do-
- 72 — 62. ✓ Fazul Rehman S/O Pir Ghulam
E.D.O. Nowshera (S&L) -do-
- 73 — 63. ✓ Fazul Rehman S/O Dildar Khan
E.D.O. (S&L) Bannu. -do-
- 74 — 64. ✓ Rehim Shah S/O Maroof Shah
E.D.O. (S&L) Malakand -do-
- 78 — 65. ✓ Muhammad Nasir Joya S/O FaizUllah
E.D.O. (S&L) D.I. Khan -do-
- 81 — 66. ✓ Zahir Shah S/O Abdullah
E.D.O. (S&L) Chitral -do-
- 82 — 67. ✓ Muhammad Nawaz S/O Rab Nawaz
E.D.O. (S&L) D.I. Khan -do-
- 83 — 68. ✓ Gul Habib S/O Gul Nazir
E.D.O. (S&L) Nowshera -do-
- 85 — 69. ✓ Muhammad Riaz S/O Gul Muhammad
Dir: Colleges NWFP Peshawar. -do-
- 87 — 70. ✓ Hidayatur Rehman S/O Ehaista Gul
Dir: Primary Edu: NWFP Peshawar -do-

Admitted
by
Advocate

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S/G award on.

- 71. Sachat Shah Zeb S/O Muhammad Saeed
P.O. (S&L) Malakand 19.7.99
- 72. Saif Khan S/O Abdul Sadiq
Bureau T&E NWFP Abbottabad -do-
- 73. Muz Nawaz Khan S/O Muhammad Salim
P.O. Lakki -do-
- 74. Habibur Rahim S/O Fazal Wahid
P.O. (S&L) Malakand -do-
- 75. Muhammad Tariq S/O Muhammad Zahid
P.O. (S&L) Swabi -do-
- 76. Musaraf Ali S/O Murtaz Ali
Primary Edu: NWFP Peshawar. -do-
- 77. Muzher S/O Gul Ahmad
P.O. (F) Swat -do-
- 78. Fazal Rehman S/O Azizur Rehman
P.O. (S&L) Mansehra -do-
- 79. Fazal Akbar S/O S. Ali Gohar
P.O. (S&L) Mardan -do-
- 80. Muhammad S/O Musa Khan
P.O. (M) Kohat -do-
- 81. Sher Dil Khan S/O Sher Ali Khan
P.O. (F) Mardan -do-
- 82. Muzzeb S/O Manjaware Khan
P.O. (S&L) Swabi -do-

Necessary entry to this effect should be made in their Service Record.

On Taking to this effect that if any overpayment was made against them as a result of the incorrect award of Selection Grade and detected latter on it will good recovery from their pay/Pension/graduity etc may be obtained from them and kept in their Service record.

Certificate to the effect that the officers concerned are not involved in any disciplinary cases, should be obtained and kept in their record before making fixation of pay.

(P. F. KHAN)

604-754

SENIOR SECONDARY
PESHAWAR.
7/05/2002.

To the:-
Accountant General
Senior Officer
District Officer
Executive Officer
ASO(A)
Director of
DSS

Senior Secondary
Peshawar.

Attested
[Signature]
[Signature]

(23) (S) (H)

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

(S)

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

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Endst. of even No & date:

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

7-2-2013
SECTION OFFICER (Primary)

26

No: 3453

Dated. 29 / 11 / 2008

From: DEO(F) Mardan

To:

The Secretary Education (S)
KPK Peshawar.

Through: **PROPER CHANNEL**

Subject: APPEAL.

Memo:

Euclosed please find appeal of Mr; Sherullah B&AO of this office for further n/a please.


The District Education Officer
FEMALE MARDAN

To

The Secy Govt of NWFP
Education Deptt. Peshawar.

(S) (27)

Through: Proper channel.

Subject: Promotion on merit as Asstt. Director BPS-17.

Sir,

With humble submission it is requested that
I am promoted as Budget & Accounts Office
BPS-16 since 1.6.1992.

There are 2 posts of AD BPS-17 regular and
your kind control and I am at 50%
of the seniority list and due for promotion
to AD BPS-17.

But un-luckily senior most persons are
adjusted on own pay grade transfer.

Sir it harm my future service and
against the service rules.

My all ACRs are already available in
your office.

Kindly arrange for my due promotion on
merit and dize.

Dated: 29/11/2008

Yours obedt
Mud
(SHARULLAH
BPAO at DELE

(13) 33

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S/O 45

TO BE SUBSTITUTED THE SAME NUMBER AND DATE
Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.

Notification:

Consequent upon the recommendation of the Departmental Promotion Committee in its meeting held on 30-07-2013 and approval of the competent authority, the following Superintendents B-16 of Elementary & Secondary Education Department are hereby promoted/adjusted as regular Budget & Accounts Officers B-16 in the interest of public service with immediate effect.

S. #	Name & Designation	From	Promoted as B&AO at	Remarks
1	Nasir Khan	Project Directorate PSPPQEO for Talented Students FATA Peshawar.	O/O the DEO(M) Nowshera	A.V.P.
2	Muhammad Azam	DCTE Abbottabad.	O/O DCTE, Abbottabad	Already occupied.
3	Inamullah	DEO(M) D.I.Khan	O/O DEO(M) DIK	-do-
4	Muhammad Ayub	DEO(M) Haripur.	O/O DEO(M) Haripur	-do-
5	Sadiqullah	DEO(M) Chitral	O/O DEO(M) Chitral	A.V.P.
6	Karim Shah	DEO(M) Mardan	O/O DEO(M) Mardan	A.V.P.
7	Adalat Khan	SDEO(M) Charsadda	O/O DEO(F) Charsadda	A.N.C.P.
8	Faza Khan	DEO(M) Dir Lower	O/O DEO(F) Dir Lower	A.N.V.P.
9	Ghulam Sarwar	DEO(M) Abbottabad	O/O DCTE Abbottabad	A.V.P.
10	Zakir Khan	DEO(M) Mansehra	O/O DEO (F) A.Abad.	A.N.C.P.
11	Fazal Shah	Dir.O(F) Hangu	O/O DEO(F) Hangu	A.N.C.P.
12	Naqib-ur-Rehman	SDEO(M) Bannu	O/O DEO (F) Bannu	A.N.C.P.
13	Munirullah Shah	DEO(F) Peshawar	O/O DEO (F) Peshawar	A.N.C.P.
14	Muhammad Ali	DEO (M) Hangu.	O/O DEO (M) Hangu.	A.N.C.P.
15	Waliullah	SDEO (M) Swabi.	O/O DEO (M) Swabi	A.N.C.P.
16	Amir Zada	DEO(M) Dir Upper	O/O DEO (M) Dir (U)	A.V.P.
17	Mr. Sultan Ahmad	DEO(M) DIKhan	O/O DEO(F) D.I.Khan	A.N.C.P.
18	Amin Jan	DE&SE Khyber Pakhtunkhwa Pesh.	O/O DEO (M) Peshawar	A.V.P.

19	Nisar Muhammad	DEO(M) Malakand	O/O DEO(M) Malakand	A.V.P.
20	Shamsul Islam	DEO(M) Chitral.	O/O DEO(F) Dir Upper	A.N.C.P
21	Rehmatullah	DEO(M) Tank	O/O DEO (F) Tank	A.N.C.P
22	Zarif Khan	D.E. FATA (Project)	Service placed at the disposal of DE (FATA) for further adjustment.	
23	Muhammad Zahoor	DEO(M) Malakand	O/O DEO(F)Malakand	A.N.C.P.
24	Latifur Rehman	DEO(F) Chitral	O/O DEO(F) Chitral	Alr occpd
25	Shafiqat Malik	SDEO(M) Haripur	O/O DEO(F) Haripur	A.N.C.P.
26	Liaqat Ali	DEO(M) Mardan	O/O DEO(M) Bunir	A.V.P
27	Muhammad Ali	DEO(M) Mardan	O/O DEO(F) Battagram	A.N.C.P
28	Muhammad Antin	DEO(M) Swat	O/O DEO(M) Swat	A.V.P.
29	Abdul Majeed	AEO Kurram Agency	O/O DEO (F) Kohat.	A.N.C.P.
30	Asdur Rashid	DEO(M) Swabi	O/O DEO (F) Nowshera	A.N.C.P.
31	Zahoor Ali	DEO(M) Peshawar	O/O DEO (M) Karak.	A.N.C.P.
32	Khan Tooti	DEO(M) Swat	O/O DEO (F) Swat	A.N.C.P
33	Khog Badshah	DEO(M) Malakand	O/O DEO (M) Shangla	A.V.P.
34	Haroonur Rashid	SDEO(F) Haripur	O/O DEO(M) Battagram	A.V.P.
35	Fazali Rehman	DEO(F) Chitral	O/O DEO (F) Lakki.	A.N.C.P.
36	Ubaidullah	DEO(M) Kohat	O/O DEO (M) Kohat	A.V.P.
37	Walayat Khan	DEO(M) Mansehra	O/O DEO (M) Mansehra	Already occupied.
38	Faridullah	DE (FATA)	Service placed at the disposal of DE (FATA) for further adjustment.	
39		DEO(F) Swabi	O/O DEO(F) Bunir.	A.V.P.
40	Abdul Sattar	DEO(M) Swat	O/O DEO (F) Shangla	A.N.C.P.
41	Adam Sher	DEO(M) Dir Lower	O/O DEO (M) Dir Lower	Already occupied.
42	Jamir Rehman	DEO(F) Mansehra	O/O DEO (F) Mansehra.	A.N.C.P.
43	Ghulam Muhammad	DEO(M) Malakand	O/O DEO (M) Torghar	A.V.P.
44	Jehan Zeb	SDEO(F) Swabi	O/O DEO (F) Swabi.	A.N.C.P.
45	Mukhtiar Khan	DE&SE Khyber Pakhtunkhwa	O/O DEO (M) Charsadda.	A.V.P.

Consequential posting/transfer of the following Superintendents is hereby ordered in their own pay and BPS in the public interest:-

S.No.	Name & Designation	Adjusted as Supdt: at	Remarks.
46	Mr. Shamsul Arifeen Supdt: O/O the DEO (M) Peshawar.	Office of the DEO (Female) Peshawar.	Vice S.No.13 promoted.
47	Mr. Abu Talib Supdt: working as B&AO at DEO (M) Peshawar.	Office of the DEO (Male) Peshawar.	Vice S.No.46
48	Mr. Mukammil Khan Supdt: at O/O the DEO (Male) Hangu.	Project Directorate PSPPQEO for Talented Students FATA Peshawar.	Vice S.No.1 promoted.
49	Mr. Sarfaraz Khan Supdt: working as B&AO at O/O the DEO (Male) Charsadda.	Office of the SDEO (Male) Charsadda.	Vice S.No.7 promoted.
50	Mr. Zubair Khan Supdt: working as B&AO at O/O the DEO (M) Nowshera.	Office of the DEO (Female) Swabi.	Vice S.No.39 promoted.
51	Mr. Luqman Khan Supdt: working as B&AO at O/O the DEO (Male) Kohat.	Office of the DEO (Male) Kohat.	Vice S.No.36 promoted.
52	Mohammad Fayyaz Supdt: at O/O the DEO (M) Battagram.	Office of the DEO (Male) Mansehra.	Vice S.No.42 promoted.
53	Mr. Aliaf Hussain Supdt: working as B&AO at DEO (M) Battagram.	O/O the DCTE Abbottabad.	Against vacant Stenographer B-16 post.
54	Mohammad Ashiq Supdt: O/O the DEO (Male) Battagram.	Office of the DEO (Male) Abbottabad.	Vice S.No.9 promoted.
55	Mr. Mumtaz Khan Supdt: at O/O the DEO (Female) Lakki.	Office of the SDEO (Male) Bahnu.	Vice S.No.12 promoted.
56	Mr. Abdul Qayum Supdt: O/O the SDEO (Female) Abbottabad.	Office of the SDEO (Male) Haripur.	Vice S.No.25 promoted.
57	Mr. Mumtaz Supdt: at O/O the DEO (M) Shangla.	Office of the DEO (Male) Mardan.	Vice S.No.26 Promoted.
58	Mr. Samullah Supdt: working as B&AO at O/O the DEO (M) Swabi.	Office of the DEO (Male) Swabi.	Vice S.No.30 promoted.
59	Mr. Ghulam Sarwar Supdt: working against the post of Audit Officer at DCTE Abbottabad.	Office of the DEO (Male) Mansehra.	Vice S.No.10 promoted.
60	Mohammad Mustafa Supdt: working against B&AO post	Office of the DEO (Male) Bunir.	Against vacant post.
61	Mohammad Bashir Supdt: working against the post of B&AO at O/O DEO(F) Haripur.	Office of the SDEO (Female) Haripur.	Vice S.No.34 promoted.
62	Mohammad Israr Supdt: (Surplus)	Against Coordinating Eng: Post O/O the DE&SE K.P.	Vice S.No.18 promoted.
63	Mushraf Ali AD (F&A)	AD Admn: Local Office	Vic. No. 45

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Handwritten signature

Supdt: Estt: Local Office	As usual:
Nouraz Shah Suptt: ✓	Vic: No.63 ✓
Shams-ur- Rehman Suptt: DEO (M) Kohat	Vice: No.31
Ali Johar Suptt: SDEO (M) Wari Dir Upper	Vice S.No. 27
Habib Aslam Suptt DEO (M) Malakand.	

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 Secret
 Post 2 AD
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Notes:

1. - Charge report should be submitted to all concerned.

(Muhammad Rafiq Khattak)
 DIRECTOR

Endst. No. 4462-4559/A-23/MS/Promotion/B&AO/2013/Dated Pesh: the , July, 31st, 2013.

Copy of the above is forwarded to the:-

1. PS to Minister for Elementary & Secondary Education Department Khyber Pakhtunkhwa.
2. PS to Secretary Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Department.
3. Director Curriculum & Teachers Education Khyber Pakhtunkhwa Abbottabad.
4. Director of Education (FATA) Peshawar.
5. Director Provincial Institute of Teachers Edu: Khyber Pakhtunkhwa Peshawar.
6. Accountant General Khyber Pakhtunkhwa Peshawar.
7. District Education Officers (Male/Female) concerned.
8. District Accounts Officers concerned.
9. Agency Accounts Officers concerned.
10. Agency Education Officers concerned.
11. Sub Divisional Education Officer (Male/Female) concerned.
12. Officers concerned.
13. PA to Director Elementary & Secondary Edu: Khyber Pakhtunkhwa Peshawar.
14. PA to Additional Directors (Estt:) & (Dev) Local Office.
15. Master File.

Deputy Director (F&A) - 518713
 Directorate of Elementary & Secy:Edu:
 Khyber Pakhtunkhwa Peshawar.

No: 1632

Dated. 8 8 2013

To,

The Secretary Education (S)
KPK Peshawar.

Through: **Director EDU;(S) KPK Peshawar.**

Subject: APPEAL OF SHERULLAH B&AG.

Memo:

I have the honour to submit the attached appeal of the above named officer for
onward submission to the authority concerned please.


The District Education Officer
(Female) Mardan

To

33

The Secy
Education Deptt. Peshawar

Through: DEO Female Mardan

Subject: Appeal for Promotion

Sir

I have the honour to submit that :-

1. I am working as B.A.O since 1.6.1992.
2. There are 2 posts of AD BPS 17 in Edu. Deptt.
3. I am at end of the Seniority list of B.A.Os, and due to for promotion on merit.
4. Sir, no promotion process is adopting since years and junior people are transferred to on these AD posts in own pay grade, only to accommodate them in Peshawar.
5. Sir, this unjustified act of the deptt. harm my service future and therefore request to arrange my promotion on merit and oblige, to avoid further violation of service rule.

Dated 5/8/2013

Yours sincerely
[Signature]



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Dated Peshawar the 29-08-2014

ANNEXURE - F

34

NOTIFICATION

No. SO(PEY)2-6/DPC Meeting/ B&AO from BS-16 TO BS 17/2014: On the recommendation of the Departmental Promotion Committee meeting held on 02-07-2014, the competent authority is pleased to promote the following Budget & Accounts Officers (BS-16) to the posts of Assistant Director (BS-17) on regular basis with immediate effect:-

S.No.	Name of officer/ Designation	Promoted as:
1.	Ghulam Sarwar B&AO (BS-16) office of DEO (M) Abbottabad.	Assistant Director (BS-17).
2.	Sherullah B&AO(BS-16) office of DEO (F) Mardan.	Assistant Director (BS-17).

They will be on probation for a period of one year, extendable for another term of one year as specified in Rule-15 of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989.

Consequent upon their promotion to the post mentioned above they are posted / adjusted as under:-

S.No.	Name of officer/ Designation	Place of posting.
1.	Ghulam Sarwar B&AO.(BS-16) DEO (M) Abbottabad.	Assistant Director (Administration) (BS-17) in the Directorate of E&SE, Peshawar against the vacant post.
2.	Sherullah B&AO(BS-16) DEO (F) Mardan.	Assistant Director (Finance & Accounts) (BS-17) in the Directorate of E&SE, Peshawar against the vacant post.

SECRETARY

Encl. No. & date as above.

Copy forwarded to:

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Accountant General Khyber Pakhtunkhwa, Peshawar.
4. PSO to Chief Secretary to Govt. of Khyber Pakhtunkhwa.
5. The Director (E&SE) Khyber Pakhtunkhwa Peshawar.
6. District Accounts Officers Abbottabad/ Mardan.
7. PS to Secretary E&SE Department.
8. Officers concerned.
9. Office File.

(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)

A Hester.
P. S. Y.
A discontinue.

Annex G ANNEXURE-D G

The Secretary to
Govt of Khyber Pakhtunkhwa
Elementary & Secondary Edu: Department.
Peshawar

Subject: DEPARTMENTAL REPRESENTATION / APPEAL FOR GRANT OF PROMOTION IN BPS-17 FROM THE DATE OF VACATION OF THE POSTS OF ASSISTANT DIRECTOR (ADMN), ASSISTANT DIRECTOR (F&A), INSTEAD OF WITH IMMEDIATE EFFECT.

I am directed to refer to the subject cited above and to state that M/S:-

1. Mr. Ghulam Sarwar Budget & Accounts Officer
2. Mr. Sherullah Budget & Accounts Officer

Were promoted to the posts of Assistant Directors (Admn/F&A) in BPS No. 17 on regular basis, vide Notification No. SO(PE)/2-6/DPC Meeting / B&AO/2014 dated 29.08.2014.

The aforesaid newly promotes Assistant Directors have preferred a departmental appeal for grant of promotion to the posts of Assistant Directors BPS No. 17 from the date of vacation of the posts instead of with immediate effect, on the basis of judgment of Service Tribunal upheld by Hon: Supreme Court of Pakistan in an other similar nature case.

The requisite appeals alongwith relevant supporting documents / Court Judgments are enclosed herewith for your kind perusal and further necessary action please.

Encl: As above.

Deputy Director (F&A)
Directorate of E&SE K.P, Peshawar

Endst; No. _____

Copy forwarded to the:-

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

[Signature]
Deputy Director (F&A)
Directorate of E&SE K.P, Peshawar

Attested.
[Signature]
AM/ate

(105)

(35)

PROPER CHANNEL

Subject:

DEPARTMENTAL REPRESENTATION / APPEAL FOR GANT OF PROMOTION
BPS-17 FROM THE DATE OF VACATION OF THE POSTS OF ASSISTANT
DIRECTOR (ADMN), ASSISTANT DIRECTOR F&A, BEING SENIOR MOST
BUDGET & ACCOUNTS OFFICER OF THE PROVINCE.

It is submitted that the facts and grounds of this departmental representation/appeal for grant of promotion to the appellant in BPS-17 being the Senior Most Budget & Accounts Officer of the Province appended below:-

1. That the appellant joined Govt service as Junior Clerk w.e.f 20.04.1980.
2. That the appellant was promoted step by step to the post of Budget & Accounts Officer
3. That the appellant stood at S.No. 2... of the Seniority list of B&AO corrected upto 31.08.2013.
4. That the appellant was allowed Selection Grade from BPS 16 to BPS 17 w.e.f 30.10.1993
5. That under the provision of Govt of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989, issued vide No.SO(PE)/1-10/SSRC/Ministerial Staff/2013 dated 28.01.2013, the vacant posts of Assistant Director(Admn) & Assistant Director(F&A) BPS-17 must be filled up, out of Budget & Accounts Officers through promotion on the basis of seniority cum fitness.
6. That the posts of Assistant Director (Admn) & Assistant Director (F&A) BPS-17 remained occupied by junior most Superintendents/ Officers of the Department.
7. That the post of Assistant Director BPS-17 was vacant and the appellant promotion under the law was due w.e.f the date of vacation of post but the appellant was promoted to Assistant Director BPS-17 on 29.08.2014 vide order No.SO(PE)/2-6/DPC Meeting / B&AO from BPS-16 to BPS-17/2014 dated 29.08.2014, which is against law, ineffective and imperative against the rights of appellant, as there is a clear cut Court Directive in this regard in an other similar nature case which is attached for ready reference.

In the light of foregoing submission it is humbly prayed that the appellant may please be considered for regular promotion to the post of Assistant Director BPS-17 w.e.f the date of vacation of post, instead of 29.08.2014.

Sherullah
Assistant Director (Admn)
Directorate of E&SE Khyber
Pakhtunkhwa Peshawar

Copy in advance for similar request to PS to Hon: Secretary E&SE Govt of Khyber Pakhtunkhwa Peshawar please.

Assistant Director (Admin)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

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Abdullah
P. A. S.
Peshawar.



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
No. SO(PE)E&SED/2-6/DPC Meeting/2015
Dated Peshawar the 24-07-2015

37

To,

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Subject:- DEPARTMENTAL REPRESENTATION/APEAL FOR GRANT OF PROMOTION IN BPS-17 FROM THE DATE OF VACATION OF THE POSTS OF ASSISTANT DIRECTOR(ADMN), ASSISTANT DIRECTOR(F&A), INSTEAD OF WITH IMMEDIATE EFFECT.

I am directed to refer to your letter No.247/A-23/MS/DSC/DPC/V-I dated 01-07-2015 on the subject noted above in r/o Ghulam Sarwar Budget & Accounts Officer and Sherullah Budget and Account Officer with the request to resubmit the case with proper detail and sound justification to this department to proceed further in the matter.

(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)



GOVERNMENT OF KHYBER PAKHTUNKHWA
 ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
 No. SO(PE)E&SED/2-6/DPC Meeting/2015
 Dated Peshawar the 01-09-2015

38
 Reminder by
 Secy. Edu. to
 Director

To,

The Director
 Elementary & Secondary Education
 Khyber Pakhtunkhwa, Peshawar.

Subject:- DEPARTMENTAL REPRESENTATION/APEAL FOR GRANT OF PROMOTION IN BPS-17 FROM THE DATE OF VACATION OF THE POSTS OF ASSISTANT DIRECTOR(ADMN), ASSISTANT DIRECTOR(F&A), INSTEAD OF WITH IMMEDIATE EFFECT.

I am directed to refer to this department letter of even number dated 24-07-2015, on the subject noted above in r/o Ghulam Sarwar Budget & Accounts Officer and Sherullah Budget and Account Officer wherein request has been made to resubmit the case with proper detail and sound justification but the same has not been furnished vide your letter No. 1890/A-23/MS/ dated 11-08-2015.

It is therefore, once again requested to furnish sound justification and views/comments of the Directorate of E&SE at the earliest to proceed further in the matter.

(ZAMIN KHAN MOMAND)
 SECTION OFFICER (PRIMARY)

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Directorate of Elementary & Secondary Education

Khyber Pakhtunkhwa, Peshawar.

No. 1890 /A-23/MS/

Dated Peshawar the 11/8 /2015.

To

The Section Officer (Primary)
Govt of Khyber Pakhtunkhwa
Elementary & Secondary Edu: Department

Subject: DEPARTMENTAL REPRESENTATION/APEAL FOR GRANT OF PROMOTION IN BPS-17 FROM THE DATE OF VACATION OF THE POSTS OF ASSISTANT DIRECTOR (ADMN), ASSISTANT DIRECTOR (F&A) BEING SENIOR MOST BUDGET & ACCOUNTS OFFICER OF THE PROVINCE.

Memo:

I am directed to refer your letter No. SO(PE)E&SED/2-6/DPC Meeting /2015 dated 24.07.2015 on the subject cited above and to submit that this office understands that the departmental appeals in respect of Mr. Ghulam Sarwar Ex- B&AO and Mr. Sherullah Ex- B&AO for grant of promotion in BPS-17 from the date of vacation of the posts of Assistant Director (Admn), Assistant Director (F&A) instead with immediate effect already submitted to your goodself vide this office letter No. 247 dated 01-07-2015 contained adequate/sound justification as quoted by the officers concerned in their appeals.

However, the subject case is again submitted alongwith appeal of Mr. Sherullah Assistant Director (Admn) Directorate E&SE Khyber Pakhtunkhwa, Peshawar quoting and enclosing therein previous references and precedent in support to their departmental appeals referred to above.

Submitted for further appropriate action, please.

Deputy Director (F&A)
Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa, Peshawar.

Endst: No. 1391

Copy forwarded to the: -

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

Deputy Director (F&A)
Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa, Peshawar

Sherullah sent SO(PE).doc

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Amnd H

1068/2015

40

Sher Ullah

VERSUS

The Chief Secretary KPK and others

I N D E X

S. No	Description of Documents	Annexure	Pages
1.	Memo of appeal alongwith affidavit		1-6
2.	Addresses of parties		7
3.	Seniority list	A	8-9
4.	Notification 33 % of Selection grade and office order	B	10-16
5.	Impugned notification from BPS-16 to BPS-17	C	17
6.	Departmental appeal	D	18-19
7.	Judgment of this Honourable Tribunal in similar cases	E	20-27
8.	Judgment of the August Supreme Court of Pakistan in petition of similar cases	F	28-33
9.	Corrigendum in similar cases	G	34
10.	Promotion order of staff in similar cases	H	35-36
11.	Wakalat Nama		

Petitioner

Through



MEHBOOB ALI KHAN

Advocate, High Court Peshawar

Cell No: 0300-5908467

Dated: 29/09/2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

1068/2015

41

Sherullah - Assistant Director (Admn) Directorate of
Elementary & Secondary Education Khyber Pakhtunkhwa,
Peshawar.

..... Appellant

VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Elementary and Secondary Education
Peshawar.
3. The Director Elementary and Secondary Education,
Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974, AGAINST THE
NOTIFICATION BEARING ENDST NO. SO
(PE)/2-6 DPC MEETING / BA & O, FROM
BS-16 TO BS-17 2014 DATED 28/08/2014,
WHEREBY THE APPELLANT WAS
PROMOTED FROM BS-16 TO BS-17,
ASSISTANT DIRECTOR
ADMINISTRATION, FROM IMMEDIATE
EFFECT (i.e. FROM 28/08/2014 INSTEAD OF
9.3.2006 THE DATE OF AVAILABILITY OF
VACANCY).

RESPECTFULLY SHEWETH,

42

The appellant submits as under:-

1. That the appellant joined Govt. service as Junior Clerk w.e.f. 20/04/1980.
2. That the appellant was promoted step by step to the post of Budget and Account Officer.
3. That the appellant stood at Serial No. 2 of the Seniority List of B&AO corrected upto 31/08/2013. (Copy attached as Annexure A).
4. That the appellant was allowed Selection Grade from BPS-16 to BPS-17 w.e.f. 30/10/993. (Copy of the notification is attached herewith as Annexure B).
5. That under the provision of Govt. of Khyber Pakhtunkhwa Civil Servant (Appointment Promotion and Transfer) Rules 1989, issued Vide No. SO (PE)4-10/SSCR/Ministerial Staff / 2013 dated 28/01/2013, the vacant posts of Assistant Director (Admn) & Assistant Director (F&A) BPS-17 must be filled up, out of Budget & Account Officers through promotion on the basis of seniority cum fitness.
6. That the posts of Assistant Director (Admn) & Assistant Director F&A BPS-17 remained occupied by junior most Superintendents / Officers of the Department.
7. That the post of Assistant Director BPS-17 was vacant and the appellant promotion under the law was due w.e.f. the

43

date of vacation of post but the appellant was promoted to Assistant Director BPS-17 on 29/08/2014 vide order No. SO(PE)/2-6/DPC Meeting / B&AO from BPS-16 to BPS-17/2014 dated 29/08/2014, which is against law, ineffective and imperative against the rights of appellant. (Copy of the notification is attached herewith as Annexure C).

8. That feeling aggrieved the appellant filed Departmental Appeal before the Secretary to Govt. Khyber Pakhtunkhwa Elementary and Secondary Education, Peshawar on 01/07/2015, but no response, whatsoever is received to appellant till the expiry of statutory period, hence the instant appeal before this August Tribunal. (Copy is annexure D).

GROUND:-

A. That under the law and rules and decisions of the Apex Courts on the subject, the appellant was entitled for promotion to the post of (BPS-17) Assistant Director Administration from the date of vacation of post i.e. 09/03/2006.

B. That the act of respondents ignoring the right of promotion of appellant from actual date i.e. the date of vacation of post of Assistant Director Administration (BPS-17) is against law, perverse, arbitrary in operative and ineffective upon the rights of the appellant and based on malafide, surmises and conjunctures.

C. That similar cases on the same prayer titled "Ghulam Rasool Versus Director of School and Literacy NWFP, Peshawar etc" were decided by his august Tribunal on 15/08/2006, which in appeals before the August Supreme Court of Pakistan got its finality. (Copy of the judgment of this Honourable Tribunal is produced as Annexure "E" while that of the august Supreme Court of Pakistan is Annexure "F" and order its implementation is Annexure G).

D. That similarly vide order bearing Endst No. 7174-85 dated 03/05/2000 Mr. Abdul Wajid and Mr. Mohammad Khan etc etc Junior clerks were promoted to the post of Senior Clerks and retrospective effect was given to them from the date of availability of vacancy of posts and not from immediate effect i.e. the date of passing such order. (Copies of orders are attached herewith as Annexure H).

E. That the cause of action arose to the appellant to file the instant appeal on 29/09/2015 i.e. after the expiry of statutory period for departmental appeal on 28/09/2015.

F. That the appellant seeks leave of this Honourable Tribunal of claim further grounds at the time of hearing.

G. That this Honourable Tribunal has got the jurisdiction to entertain the instant appeal.

PRAYER:-

It is therefore, very humbly prayed that the instant appeal may very graciously be accepted and the respondents may kindly be directed to consider / modify

the date of promotion of the appellant w.e.f 09/03/2006.
(i.e. from the date of availability of vacancy) instead of
29/08/2014 (i.e. the date of passing of the impugned
notification) with all back benefits.

Any other consequential relief which this
Honourable Court / Tribunal deems fit and proper under
the circumstances of the case may also be granted.

Appellant

Through


MEHBOOB ALI KHAN

Advocate, High Court,

Peshawar.

45

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

46

Sherullah

VERSUS

The Chief Secretary Khyber Pakhtunkhwa, Peshawar and
others

AFFIDAVIT

I, Sherullah Assistant Director (Admn)
Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar, do hereby solemnly
affirm and declare on oath that all the contents of
instant service appeal are true and correct to the best of
my knowledge and belief and nothing has been
concealed or misstated from this Honourable Tribunal.

Sherullah

ATTESTED DEPONENT



(47)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Sherullah

VERSUS

The Chief Secretary Khyber Pakhtunkhwa, Peshawar and
others

ADDRESSES OF PARTIES

APPELLANT:-

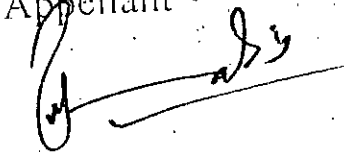
Ghulam Sarwar Assistant Director (Admn) working as Deputy
Director (Admn) DCTE, Khyber Pakhtunkhwa, Abbottabad.

RESPONDENTS:-

1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Elementary and Secondary Education
Peshawar.
3. The Director Elementary and Secondary Education,
Peshawar.

Through

Appellant



MEHBOOB ALI KHAN

Advocate, High Court,

Peshawar.

Annex 1
48

IN THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 1058 / 2015

Sharullah Ex- AD(Admn) Directorate of E&SE Department, Khyber Pakhtunkhwa, Peshawar.
.....Appellant.

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa & others.Respondents

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS 1-3.

Respectfully Sheweth:-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

1. That the Appellant has got no cause of action / locus standi.
2. That the instant Service Appeal is badly time barred.
3. That the Appellant has concealed material facts from this Honorable Tribunal, hence liable to be dismissed on this score.
4. That the Appellant has filed the instant appeal on malafide motives.
5. That the Appellant has not come to this Honorable Tribunal with clean hands.
6. That the Appellant is not entitled for the relief he has sought from this Honorable Tribunal.
7. That the instant Service Appeal is against the prevailing law & rules.
8. That the instant Appeal is based on malafide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
9. That this Honorable Tribunal has got no jurisdiction to adjudicate upon the present service appeal.
10. That the appeal is not maintainable in its present form & circumstances of the case.
11. That the appeal is bad for mis-joinder & non-joinder of the necessary parties.
12. That the appellate order / Notification dated 29/08/2014 is legally competent & liable to be maintained in favour of the Respondents.

ON FACTS

1. That Para-1, needs no comments being pertains to the service record of the appellant.
2. That Para-2 is correct, hence needs no further comments.
3. That Para-3 is also correct, hence needs no further comments.

That Para-4 is incorrect & misleading on the grounds that the appellant was made entitled for the grant of Selection Grade wef 19-7-1999 vide Notification dated 29-9-004. However, the appellant preferred a Service Appeal before the Honorable Service Tribunal, which was accepted on 15-8-2006 & upheld by the August Supreme Court of Pakistan vide judgment dated 05-3-2010. Hence in pursuance of the said judgment, the appellant has been allowed Selection grade wef 30-10-1993 vide Corrigendum order dated 26-4-2010 issued by the Respondent No: 3 in the interest of justice. (Copy of the said is Annexure-A).

That Para-5 is correct, hence needs no comments.

That Para-6 is also correct. Hence needs no comments.

6 That Para-7 is incorrect & denied. The cited Notification dated 28-01-2013 with reference to S/No: 2 says that in pursuance of the provisions contained in Sub: Rule-2 of Rule-3 of the Khyber Pakhtunkhwa, Civil Servants APT Rules, 1989 & supersession of all Rules issued in this behalf to the extent of E&SE Department in consultation with the Establishment & Finance Departments hereby lays down the method of the recruitment, qualification & other conditions specified in column 3 to 5 of the Appended to this Notification shall be applicable to the posts born on Ministerial Establishment in the Respondent Department specified in column-2 with the conditions for the grant of promotion on the basis of seniority cum fitness for the Budget & Accounts Officer with at least 2-years regular service as such. Hence the appellant is not entitled for the grant of promotion as mentioned in the Notification & has thus been made entitled for the grant of promotion in BPS17 wef 29-8-2014 against the AD (Admn:) post in the Respondent Department with immediate effect as and when the posts / vacancies were available to the Respondents for the purpose of adjustment of the appellant. (Copy of the said Notification is as Annexure-B).

7 That Para-8 is also incorrect & denied. There were no vacant posts available in the Respondent Department, upon which the appellant could be adjusted against the Asst: Director (Admn:) post in BPS-17. However, as & when the vacancy was available, the competent authority has been pleased to promote the appellant vide Notification dated 29-8-2014 with immediate effect & in the interest of public service (Copy of the said Notification is Annexure-C).

8 That Para-9 is incorrect & denied. No Departmental Appeal has been filed by the appellant against the impugned Notification dated 29-8-2014 nor any such record is available in the Respondent Department till date. Hence the plea of the appellant is liable to be dismissed on the following grounds inter alia :-

GROUNDS.

- A. Incorrect & denied. The statement of the appellant is against the facts & actual circumstances of the case on the grounds that the appellant has been promoted against EPS-17 post of AD (Admn:) vide the impugned Notification dated 29-8-2014 on the availability of vacancy against the post in the Respondent Department.
- B. Incorrect & denied. The appellant has been treated as per law, Rules & Promotion Policy in the instant case & has thus made entitled for the grant of promotion vide the impugned Notification dated 29-8-214, by the Respondent Department.
- C. Incorrect & denied. The refer case is not fit & even applicable upon the case of the appellant as each & every case has its own nature & parameters. Hence the plea of the appellant is liable to be dismissed in favour of the Respondents.

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Incorrect & denied. The case & issue of the appellant is different from the cited case of the Junior & Senior Clerks. Hence not applicable upon the case of the appellant in the wake of the above made submissions in the foregoing paras.

Incorrect & denied. The appellant has got no cause of action as the impugned Notification dated 29-8-2014 is in accordance with law, Rules & policy issued by the Respondent Department in the interest of equity & justice with immediate effect. Hence is liable to be maintained.

The Respondents seek leave of this Honorable Tribunal to advance additional grounds & case law/ record at the time of arguments on the main appeal.

Incorrect & denied on the grounds that this Honorable Tribunal has got no jurisdiction to entertain the instant appeal against the Respondents.

Prayer

In view of the above made submissions, it is humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant appeal with cost in favour of the respondent Department.

Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 1&2)

Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent-3)

AFFIDAVIT

I, Khaista Rehman Asstt: Director (Lit: II) E&SE Department Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant Parawise Comments in the titled Service appeal are true & correct to the best of my knowledge & belief & that nothing has been concealed from the ambit of this Honorable Tribunal.

Deponent

Annex - J



(S)

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
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1	2	3
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
Service Appeal No. 1068/2015

Date of Institution 29.09.2015
Date of Decision 09.04.2019

Sherullah Assistant Director (Admn) Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

Appellant

Versus

1. The Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. The Secretary Elementary & Secondary Education, Peshawar.
3. The Director Elementary & Secondary Education Peshawar.

Respondents

Mr. Muhammad Hamid Mughal-----Member(J)
Mr. Hussain Shah -----Member(J)

09.04.2019

ATTESTED

Registrar
Khyber Pakhtunkhwa Service Tribunal,
Peshawar

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: - Learned counsel for appellant and Mr. Zia Ullah learned Deputy District Attorney present.

2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 being aggrieved against the promotion order dated 29.08.2014 whereby he was promoted from the post of Budget & Account Officer (BS-16) to the post of Assistant Director (BS-17) with immediate effect. Prayer of the appellant is that the respondents may be directed to promote the appellant to the post of Assistant Director (BS-17) from the date of

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availability of vacancy instead of 29.08.2014.

3. Learned counsel for the appellant argued that under the promotion criteria dated 28.01.2013, the vacant posts of Assistant Director (Admn) & Assistant Director (F&A) BS-17 has to be filled up out of Budget & Account Officers through promotion on the basis of seniority cum fitness. Further argued that the posts of Assistant Director (Admn) & Assistant Director (F&A) remained occupied by the junior most superintendents and other officers of the department hence the appellant's promotion to the post of Assistant Director was due from the date of availability of vacancy but the appellant was promoted to the said post w.e.f 29.08.2014 instead of from the date of availability of vacancy which is against law and norms of justice; that the departmental appeal of the appellant went un-responded.

4. As against that learned Deputy District Attorney argued that the appellant has not filed any departmental appeal against the promotion order dated 29.08.2014; that the appellant was not entitled for the grant of antedated promotion; that as and when the vacancy was available, the competent authority promoted the appellant vide impugned promotion order dated 29.08.2014.

5. Arguments heard. File perused.

6. It is also to be seen that whether under the promotion criteria which was in field prior to the promotion criteria dated 28.01.2013, the appellant was also entitled to promotion to the post of Assistant Director (BS-17) or otherwise.

ATTACHED

Sd/-
Service In-charge
Peshawar

4.2019

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7. Admittedly, there is no order of the appellate authority in relation to the grievance of the appellant. Consequently the present case is remanded to the appellate authority (Respondent No.2) for decision of the departmental appeal of the appellant with speaking order. The present service appeal is disposed of in the above terms. Copy of the departmental appeal of the appellant available on file be also sent to the appellate authority alongwith copy of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

[Handwritten signature]

[Handwritten signature]
 (Hussain Shah)
 Member

[Handwritten signature]
 (Muhammad Hamid Mughal)
 Member

ANNOUNCED
 09.04.2019

Certified true copy
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 Keya...
 Service Council,
 Peshawar

Date of Receipt of... 16-4-2019
 Number of... 12000-
 Copies for... 10-
 Urgent... 10-
 Total... 10-
 Name of... *[Handwritten]*
 Date of Completion of... 3-5-2019
 Date of Delivery of... 3-5-2019

BEFORE THE HONOURABLE KP SERVICE TRIBUNAL
PESHAWAR.

E.P. NO. 144 2020

IN

APPEAL NO. 1068/2015

786
02/10

54

Sherullah Ex-Assistan Director (Admin) Directorate of Elementary &
Secondary Education Peshawar.

..... Petitioner

Versus

Secretary elementary & Secondary Education Peshawar.

..... Respondent

EXECUTION PETITION FOR IMPLEMENTATION
OF JUDGMENT DATED 09-04-2019 PASSED BY
THIS HONOURABLE TRIBUNAL.

Respectfully sheweth.

Petitioner submits as under :-

- 1- That the petitioner/ Appellant filed an Appeal against the notification bearing Endst No. SO (PE) /2-6 DPC meeting BA & O from BS-16 to BS 17 2014 dated 28/08/2014, whereby the appellant was promoted from BS-16 to BS-17 Assisstant Director Administration, with immediate effect instead of the date of availability of the vacancy.
- 2- That this honouable tribunal disposed-off the appeal with the following observations/directions :-

Admittedly, there is no order of the appellate authority in relation to the grievance of the appellant. Consequently the present case is remanded to the appellate authority (Respondent No.2) for decision of the departmental appeal of the appellant with speaking order. The present service appeal is disposed off in the above terms. Copy of the departmental

ATTESTED

EXAMINER
Peshawar
Tribunal

appeal of the appellant available on file be also sent to the appellate authority alongwith copy of this judgment, vide judgment dated 09-04-2019. (Copy attached as Annex:-A1).

3- That since then the appellant/Petitioner time an again requested the respondents for implementation of the above judgment order of this honourable tribunal but still no response what so ever from there side.

4- That almost one and a half year has passed but still the respondent is reluctant to implement the judgment of this honourable tribunal and the applicant has left with no other option but to approach this honourable tribunal. hence, the applicant in hand.

It is, therefore, humbly prayed that the respondents be directed to implement the judgment/order dated 09-04-2019.

Any other remedy deem proper in the matter and not specifically asked for may also please be given with Costs.

[Signature]

Petitioner/Appellant

Through:-

[Signature]

IBADUR RAHMAN
Advocate High Court
Sarhad Mansion
Hashtnagri, GT. Road
Peshawar.

DATED 02/9/2020

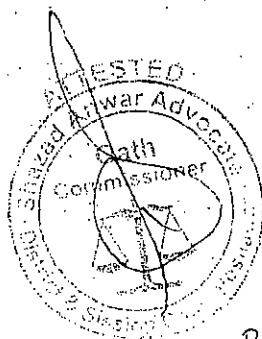
AFFIDAVIT

Stated on oath that above contents are true and correct to the best of my knowledge and belief.

[Signature]
Deponent

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



02-10-2020

55



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

56

No.SO (Lit) E&SED/1-3/SA/1264/2015
Dated Peshawar the, March 22, 2021

Order

WHEREAS Mr. Sher Ullah, was promoted from the post of Budget & Accounts Officer (BS-16) to post of Assistant Director BS-17 on regular basis on the recommendations of the Departmental Promotion Committee vide notification dated 29.08.2014.

AND WHEREAS In terms of Rule 15 (2) of Khyber Pakhtunkhwa Government Servants Appointment, Promotion & Transfer (APT) Rules 1989(in-vogue by then), he was on probation for a period of one year extendable for another year. Hence he was on probation upto 28.08.2016.

AND WHEREAS final seniority list of Assistant Director was issued on 31.08.2015.

AND WHEREAS his date of birth being 13-11-1955, he proceeded on retirement on 12-11-2015 on the basis of superannuation. Hence he retired from service before completion of his probation period on i.e 28.08.2016

AND WHEREAS promotion to next higher grade/post is not considered during probation period as contained in clause-IV (f) of promotion policy 2009 of provincial Government.

NOW THEREFORE this departmental appeal has been considered on the above grounds and dismissed, being devoid of merit.

SECRETARY

Ends: Even No. & Date:

Copy of the above is forwarded to:-

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar w/r to judgement dated 09.04.2019 in Service Appeal No 1264 of 2015 in appeal No. 1068/2015
2. The Director, E & S E Department Khyber Pakhtunkhwa, Peshawar.
3. Director, Curriculum & Teachers Education Abbottabad.
4. Section Officer (Lit-II), E&SE Department.
5. PS to Secretary, E & S E Department Khyber Pakhtunkhwa, Peshawar.
6. Mr. Sher Ullah, Ex-Assistant Director (Administration) (BS-17) Directorate of E&SE Peshawar
7. Office Order File

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Certified to be true copy

**EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar**

Date of Presentation of Application 23-4-2021
 Number of Words 2000
 Copying Fee 22 -
 Urgent 4 -
 Total 26 -
 Name of Copyist [Signature]
 Date of Completion of Copy 23-4-2021
 Date of Delivery of Copy 23-4-2021

Annex K

(57)

(AD)

(B)

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa Service Tribunal

In S.A 4981 /2021

Diary No. 5049

Dated 28.4.2021

Sherullah, Ex-Assistant Director (Admn), Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

-----Appellant

VERSUS



1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Elementary & Secondary Education, Peshawar.
3. The Director, Elementary & Secondary Education, Peshawar.

-----Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT - 1974 AGAINST THE NOTIFICATION BEARING ENDST NO: SO(PE)2-6 DPC MEETING/B&AO, FROM BPS-16 TO BPS-17/ 2014 DATED 29/08/20214, WHEREBY THE APPELLANT WAS PROMOTED FROM BPS-16 TO BPS-17 AS ASSISTANT DIRECTOR FROM IMMEDIATE EFFECT I.E. (29/08/2014) INSTEAD OF 09/03/2006, THE DATE OF AVAILABILITY OF VACANCY.

day
Registrar
2021

REGISTERED
Khyber Pakhtunkhwa Service Tribunal

Respectfully Sheweth,

FACTS.

1. That the appellant joined services as Junior Clerk with the respondents department on 20.4.1980.
2. That the appellant was promoted step by step to the post of Budget and Accounts Officer. Annex "A" (P 1 to 2)
3. That the appellant stood at Serial No.2 of the seniority list of B&AO corrected upto 31.8.2013 Copy of seniority list is attached herewith as Annexure-"B" (P 3 to 5).
4. That the appellant was allowed Selection Grade from BPS-16 to BPS 17 w.e.f. 30.10.1993. Copy of the notification is attached as Annexure-"C" (P 6 to 9).
5. That under the Provision of Govt: of Khyber Pakhtunkhwa Civil Servant (Appointment and Transfer Rules 1989, issued vide Notification No. SO (PE) 4-10/SSCR(Ministerial Staff/2013 dated 28-01/2013, the vacant posts of Assistant Director(F&A/Admn) BPS-17 must be filled up, out of budget and account Officers through promotion on the basis of seniority cum-fitness. Annex "C/1 (P 10 to 12)"
6. That the post of Assistant Director (Admn) & Assistant Director F&A BPS-17 remained occupied by Junior most Superintendents / Officers of the Department and despite of repeated requests of the appellant for his

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APPROVED

(Signature)

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promotion the respondents always turned deaf ears. Annex "C/2" (13 to 17)

7. That the post of Assistant Director was vacant and the appellant promotion under the law was due w.e.f. the date of vacation of post but the appellant was promoted to the post of Assistant Director BPS-17 on 29.8.2014 vide order No. SOPE/2-6/DPC Meeting /B&AO from BPS-17/2014 dated 29.8.2014, which is against the law ineffective and inoperative upon the rights of the appellant. Copy of the notification is attached herewith as Annexure- "D" (P 18).
8. That feeling aggrieved the appellant, while in service filed departmental appeal before the Secretary to Govt. of Khyber Pakhtunkhwa Peshawar on 1.7.2015, but no response whatsoever was received, so the appellant filed Appeal No. 1068/2015, before this Hon'ble Tribunal, which was contested by the respondents by filing written reply etc. Copy of the reply and re-joinder etc are attached herewith as Annexure- "E/1 to 3" (P 19 to 34).
9. That after hearing arguments of both the counsel for the parties, this Hon'ble Tribunal vide its judgment and order dated 9.4.2019, the case was remanded to the appellate authority for decision of the department appeal of the appellant with speaking order. Copy of the previous appeal and judgment of

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

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A/R
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this Hon'ble Tribunal are attached herewith as Annexure- "E / 1 to 3" (P 19 34).

10. That since the respondents were reluctant to decide the departmental appeal of the appellant as per directions of this Hon'ble Tribunal, therefore, the appellant filed an execution petition before this august Tribunal on 2.10.2020 and it was on 01.4.2021 when the respondent No.2 produced, before this Hon'ble Tribunal, the copy of the orders of rejection of departmental appeal of the appellant on 22.3.2021; feeling aggrieved the appellant re-filed the instant appeal. Copy of the previous appeal and judgment and order is attached herewith as Annexure-"F / 1 to 3" (P 35 to 42).

GOUNDS.

- a) That the order of rejection of departmental appeal dated 22.3.2021 is in vogue, hasty in manner and not sustainable in the eye of law in any manner whatsoever.
- b) That the concerned authority while deciding the departmental appeal of the appellant has not gone through the same by applying a prudent mind as to what the appellant asked from them, what are the directions of this Hon'ble Tribunal and what law on the subject matter is applicable? The concerned authorities comments on the departmental appeal are in favour of the appellant which are attached herewith as Annexure-"G" (P 43 to 45).

APPROVED
BY
Khyber Pakhtunkhwa
Service Tribunal

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c) That the vacancy for promotion of the appellant on the fateful date i.e. on 9.3.2006 was available when one Rahimullah Assistant Director was retired at the age of superannuation and the respondents kept this vacancy occupied by most junior superintendents because of favoritism and personal likes and dislikes. Copy of the aforesaid notification is attached herewith as Annexure-"G/1 (P 46)".

d) That under the law and rules and decisions of the Apex Courts on the subject, the Appellant was entitled for promotion to the post of BPS-17 Assistant Director from the date of vacation of post i.e. 09/03/2006 as per promotion criteria dated 9.5.1978, prior to the promotion criteria dated 28.1.2013. Copy of the notification dated 9.5.1978, referred to above is attached herewith as Annexure-"G/2" (P 47 to 49).

e) That the act of respondents, ignoring the right of promotion of Appellant from actual date i.e. the date of vacation of post of Assistant Director BPS-17 is against law, perverse, arbitrary, in-operative and ineffective upon the rights of the appellant and based on malafide, surmises and conjectures.

f) That similar cases on the same prayer titled "Ghulam Rasool V/s Director of Schools & Literacy NWFP Peshawar Etc", were decided by this August Tribunal on 15/08/2006 which in

ATTESTED

[Signature]

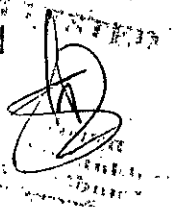
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appeals before the August Supreme Court of Pakistan, got its finality. (Copy of Judgment of this Hon'ble Tribunal is produced as Annexure H (50 to 56) while that of the August Supreme Court of Pakistan is Annexure J (P 57 to 61) and order of its implementation is Annexure-K (P 62).

g) That similar nature of cases are also produced as Annexure L to P (P 63 to 88), detail of which is given below:-

- (i) Appeal No: 1356/2012 Kurshid Ali Forestor V/s Govt of KPK (Decided by Service Tribunal KPK) Annex "L (P 63 to 66)"
- (ii) Appeal No: 612/2008 Muhammad Iqbal Khattak V/s Govt of KPK (Decided by Service Tribunal KPK). Annex "M" (P 67 to 72)
- (iii) Writ Petition No: 2334-P/2014 Niaz Muhammad V/s C.E.L.R.H (Peshawar High Court) "N" (P 73 to 77)
- (iv) 2002 PLC (CS) 1388 Muhammad Hasnain Shah V/s IGP (Punjab Service Tribunal) Annex "O" (P 78 to 81)
- (v) 2010 PLC (CS) 760 Muhammad Amjad & Others V/s Dr. Israr Ahmad (Supreme Court of Pakistan). Annex "P" (P 82 to 88)

h) That similarly vide order bearing Endst No: 7174-85 dated 03/05/2000, Mr. Abdul Wajid




(63) (A) (S)

and Muhammad Khan etc Junior Clerks were promoted to the post of Senior Clerks and retrospective effect was given to them from the date of availability of vacancy and not from immediate effect. Copy of which is Annexure Q/1-2 (P 89 to 90).

- i) That the Hon'ble Supreme Court has been pleased to direct vide CP 35-P/2007 "THAT THE GOVT EMPLOYEES ARE ALWAYS ANXIOUS ABOUT THEIR PROMOTION OR TO GOT BENEFIT OF THE SERVICE AS EARLY AS COULD BE POSSIBLE AND THE DEPARTMENT CANNOT BE ALLOWED TO SLEEP FOR ANY INDEFINITE PERIOD". Annex "J" (P 57 to 61) specially P 60.
- j) That the directions of this Hon'ble Tribunal in Appeal No: 612/2008, copy attached vide No. 4 (ii) above are very clear which are reproduced as "That Anti-dating of promotion, after consideration of the candidate aspiring for such promotion after he was found eligible and fit for such promotion and is promoted, is an established principle of law. Such candidate cannot be punished for any delay caused by the department in processing his case for promotion. The order of promotion, therefore has to be antedated to the date on which they vacancy for his turn became available". Copy of which is attached herewith as Annexure-"M" (P 67 To 72) specially P. 69
- k) The respondents misinterpreted the words "with immediate effect" which actually means "as and when the vacancy arise" and "the candidate is fit for promotion shall be given promotion without loss of time". But here in appellant's case, his promotion is actually delayed by more than 8 years by the respondents.

ATTESTED



64
A-8
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- l) That the appellant seeks leave of this Hon'ble Tribunal of claim further grounds at the time of final hearing.
- m) That this Hon'ble Tribunal has got the jurisdiction to entertain the instant appeal.

PRAYER:

It is, therefore, very humbly prayed that the instant appeal may very graciously be accepted and the respondents may kindly be directed for antedating the promotion of the appellant w.e.f 09.03.2006 i.e from the date of availability of vacancy instead of 29/08/2014 (i.e the date of passing of impugned notification) with all back benefits.

Any other consequential relief which this Hon'ble Tribunal deems fit and proper under the circumstances of the case may also be granted.

Dated: 26/04/2021

[Signature]
Appellant

Through *[Signature]*
(Mehboob Ali Khan Dagal),
Advocate High Court, Peshawar.

Certified in the fore
E. J. J. J. J.
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 08/02/23
 Number of Page 8
 Copying 50/-
 Fees 55/-
 Date of Delivery of Copy 06/3/23
06/3/23

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**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

Service Appeal No: 4981/2021

Sher Ullah, Ex-AD Admn DCTE Abbottabad.....Appellant.

VERSUS

Chief Secretary, Govt; of Khyber Pakhtunkhwa & others.....Respondents

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No: 1 to 3.

Respectfully Sheweth :-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the appellant has got no cause of action /locus standi.
- 2 That the appellant is not an aggrieved person within the meaning of Article 212 of the constitution of Islamic Republic of Pakistan 1973.
- 3 That the instant Service Appeal is badly time barred under Law of limitation Act,1908.
- 4 That the appellant has concealed material facts from this Honorable Tribunal.
- 5 That the instant service appeal is based on malafide intentions.
- 6 That the appellant has not come to this Honorable Tribunal with clean hands.
- 7 That the appellant is not entitled for the relief he has sought from this Honorable Tribunal.
- 8 That the instant Service Appeal is against the prevailing Law, Rules and policy.
- 9 That the appellant has been treated as per law & policy by the Department.
- 10 That the appeal is not maintainable in its present form.
- 11 That the appeal is bad for mis-joinder & non-joinder of the necessary parties.
- 12 That the appellant is not competent to file the instant appeal against the Department.
- 13 That the instant appeal is not maintainable in its present form.

66

14 That this Honorable Tribunal has got no jurisdictions to entertain the instant case.

15 That the Notification No.SO (PE)2-6/DPC meeting/B&AO, form BPS16 to BPS-17/2014 dated 29-08-2014 is legally competent & liable to be maintained as the appellant is not entitled for the grant of promotion w.e.f. 08-01-1997 in the Respondent Department.

ON FACTS

- 1 That Para-1 needs no comments being pertains to the service record of the appellant against the senior scale stenographer post inducted vide order dated 01-02-1979 & later on promoted to the post of superintendent ~~post~~ on dated 22-06-1987 & copies of the orders under reference are attached as **Annexure-A & B**.
- 2 That Para-2 is correct that vide order dated 11-01-1988, the appellant was promoted to the post of B&AO in BPS-16 by the Department & copy of the order is attached as Annexure-C.
- 3 That Para-3 is correct to the extent of final seniority list as stood up to 31-03-2013 of B&AOs attached as **Annexure-D**, hence, needs no further comments.
- 4 That Para-4 is incorrect & misleading on the grounds that there was no vacant post of Deputy Director (BPS-18)(regular)available for the ministerial staff in the Respondent Department upon which the appellant could be adjusted against the above mentioned post. Hence the stand of the appellant is also liable to be dismissed.
- 5 That Para-5 is correct that vide Notification No.SO (PE)2-6/DPC meeting/B&AO, form BPS16 to BPS-17/2014 dated 29-08-2014, the appellant was promoted against the AD (Admn) Post in BPS-17 w.e.f. 29-08-2014 in view of his seniority & other service record in the Department, therefore, the plea of the appellant regarding grant of promotion w.e.f. 01-08-1997 against the AD in BPS-17 post is illegal & liable to be rejected copy of the Notification dated 29-08-2014 is **Annexure-E**.
- 6 That Para-6 is also incorrect & denied on the grounds that the appellant has got retired from official service against the AD (Admn) post on completion of his 60 years of age /superannuation & the Notification No. SO(PE)4-10/SSRC/Ministerial Staff/2013 dated 28-01-2013 is not applicable upon the case of the appellant in the given circumstances of the case, hence the plea of the appellant regarding working against the Deputy Director post (Admn) as baseless & without any legal justification & a copy of the Notification dated 28-01-2013 is Annexure-F.
- 7 That para-7 is incorrect & denied on the grounds that the appellant has got retired from the official service on attaining of 60 years of age on superannuation & was not entitled for the grant of promotion against the Deputy Director (Admn) BPS-18 under the shadow of ministerial staff, nor he has submitted any application for the grant of promotion against the above mentioned post to the Respondent Department till date, hence, his plea is liable to be rejected.



67

- 8 That para-8 is incorrect to the extent of filling of Departmental appeal against the Notification dated 29-08-2014, whereby, he has been promoted as AD in BPS-17 by the Department under the Rules. Therefore, the Notification dated 29-08-2014 has got final against the appellant under the Law, whereas, rest of the para regarding service appeal No.1067/2015 is relates to the record off this Honorable Tribunal.
- 9 That Para-9 is Correct that vide Judgment dated 09-04-2019 the case of the appellant was remitted to the Department for disposal the case of the appellant which was decided vide order dated 22-03-2021 competent authority in shape of dismissal on merits of the case & copies of the Judgment dated 09-04-2019 & order dated 22-03-2021 are Annexure G & H.
- 10 That Para-10 is incorrect on the grounds that vide order dated 22-03-2021 the Departmental appeal of the appellant has been decided by the Respondent No.2 as per Judgment dated 09-04-2019 & was dully communicated to the appellant, hence, the plea of the appellant & misleading.
- 11 That Para-11 is legal, the statement of the appellant is baseless, hence the appeal of the appellant is liable to be dismissed on the following grounds inter alia :

ON GRONDS

- A **Incorrect & not admitted.** The order dated 22-03-2021 is legal, hence, the statement of the appellant is against the law, rules & policy as submitted in the foregoing Paras in the instant reply, hence the case of the appellant is of no legal force & liable to be dismissed.
- B **Incorrect & not admitted.** The statement of the appellant is baseless & is liable to be dismissed.
- C **Incorrect & not admitted.** The statement of the appellant in this para is too baseless, hence liable to be rejected.
- D **Incorrect & not admitted.** No vacancy was available in the Department during the period dated 08-01-1997, hence, the stand of the appellant is illegal.
- E **Incorrect & not admitted.** The appellant has got no cause of action, nor he is an aggrieved person to file the instant Service Appeal before this Honorable Tribunal, hence is liable to be dismissed in favour of the Respondents.
- F **Incorrect & not admitted.** The appellant has been treated as per law rules & policy by the Department.
- G **Incorrect & not' admitted.** The cited cases as mentioned in sub-grounds from A to G are not applicable upon the case of the appellant, hence, denied. However, the Respondents No: 1-3 seek leave of this Honorable Tribunal to submit additional grounds & case law / record at the time of arguments on main appeal on the date fixed before this Honorable Bench

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In view of the above made submissions, it is most humbly prayed that this Honorable Tribunal may very graciously be pleased to dismiss the instant Appeal with cost in favor of the Respondent Department in the interest of justice.

Dated ___/___/2022.

[Signature]

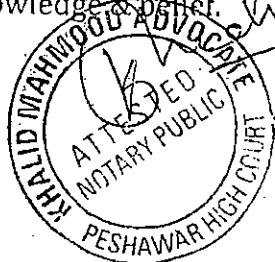
SECRETARY
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 1 & 2)

[Signature]

DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 3)

AFFIDAVIT

I, Dr. Hayat Khan Assistant Director (Litigation-II) E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief.



36-5-22

[Signature]
Deponent

Certified to be
[Signature]
Khyber
Service Division
Peshawar

Date of Presentation of Affidavits 06/3/23
Number of Pages Page 4
Copying Fee 20/-
Higest 5/-
Date of Delivery of Copy 06/3/23
06/3/23

Service Appeal No.4981/21 titled "Sherullah Vs. Chief Secretary Khyber

Pakhtunkhwa, Peshawar and two others".

Kalim Arshad Khan, Chairman:

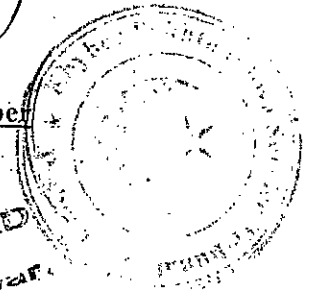
27.02.2023

1. Learned counsel for the appellant Mr. Riaz Khan Paindakhel, learned Assistant Advocate General for respondents present.

2. Brief facts of the case are that appellant was promoted as Budget and Accounts Officer. In the meanwhile, the post of Assistant Director (Admin) became vacant which was allegedly to be filled out of the Budget & Accounts Officers, but instead, the post of Assistant Director (Admin) was occupied by Junior Superintendents/Officers of the Department. Being aggrieved, the appellant filed departmental appeal which was not responded to, hence, he filed Service Appeal No.1068/2015 which was decided by directing the respondents to decide the departmental appeal with speaking orders. Consequently, the respondents rejected the departmental appeal of the appellant, hence, the present service appeal.

3. Not only the order dated 22.03.2021 of the Secretary to the Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department but also the reply of the respondents are misconceived and not related to the prayer made in the departmental representation as well as in this appeal. This careless action on the irresponsible part of respondents has wasted a couple of years of the appellants. Therefore, while setting aside the order

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K-20
Peshawar



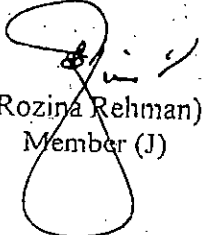
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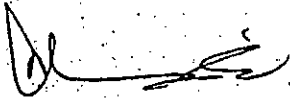
EXAMINED
BY THE
SECRETARY
GOVERNMENT OF
KHYBER PAKHTUNKHWA
PESHAWAR

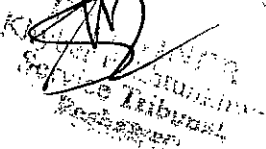
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dated 22.03.2021, we direct that the departmental representation of the appellant be properly decided within a period of 30 days but not later than 13th March, 2023 positively, failing which, a cost of Rs.100,000/- will be imposed upon the respondents to be recovered from their personal pay. Disposed of accordingly. Consign.

3. Pronounced in open Court Peshawar under our hands and seal of the Tribunal on this 27th day of February, 2023.


(Rozina Rehman)
Member (J)


(Kalim Arshad Khan)
- Chairman

Certified to be true copy

Tribunal
Peshawar

Date of Presentation of Application 17/4/23
Number of Page 2
Copying Fee 10/-
Urgent 15/2/-
Total 15/2/-
Date of 17/4/23
Date of Delivery of Copy 17/5/23



**GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY
EDUCATION DEPARTMENT, CIVIL SECRETARIAT BLOCK A PESHAWAR**

71

NOTIFICATION

1. Whereas, the appellants namely Ghulam Sarwar & Sherullah Ex-Assistant Directors E&SE Khyber Pakhtunkhwa Peshawar have filed Service Appeal No. 4980-01/2021 under case titled Ghulam Sarwar etc. VS Chief Secretary & others under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the Notification dated 29-08-2014, whereby, the appellants have been promoted from BS-16 to 17 as Assistant Directors with immediate effect i.e. 29-08-2014 instead of 08-01-1997, the date of availability of vacancy of the post of Assistant Director (BS-17).
2. And whereas, the afore-named appeals of the appellants have been decided vide consolidated order judgment dated 27-02-2023 by the Honorable Service Tribunal, Peshawar, whereby, the Respondent No.2/Secretary E&SE Department Khyber Pakhtunkhwa has been directed to dispose of the pending Departmental Appeals of the appellants afresh by sitting aside the notification dated 22-03-2021 on the ground of being not related to the main project of the appellants, within statutory period of one month from the receipt of the order/judgment under reference.
3. And whereas, in this regard, Respondent No.3/Director E&SE Khyber Pakhtunkhwa has submitted a comprehensive report vide No.4404/A-23/MS Appeal/Sher Ullah dated 10-12-2019 in response to this office letter dated 17-10-2019, whereby, contention of the appellants have been denied with the assertion that the grievances of appellants pertains in the period (1991) of Ex-Directorate of Education (schools) NWFP, Peshawar which was later on, bifurcated into two separate entities i.e. Directorate of Secondary Education NWFP, Peshawar and Directorate of primary education NWFP, Peshawar. Moreover, the one, Mr. Fazle Khaliq (referred case of the appellant) was promoted to BS-17 on regular basis on different nomenclatures as Assistant Director (private school) not Assistant Director (Admin) in the erstwhile Directorate of education (schools) NWFP, Peshawar in the year 1990-91 under the service rules of Ministerial Establishment, notified in the year 1978, superseded vide Notification No SO (PE)/4-10/SSR/Ministerial staff/2013 dated 28-01-2013.
4. And whereas, in the wake of retirement of Mr. Fazle Khaliq Assistant Director (the referred case of the appellant), the Directorate of Secondary Education NWFP, Peshawar and Directorate of Primary Education NWFP, Peshawar were dissolved as a result of devolution of powers plan in the year 2001 & the Directorate of School & Literacy NWFP Peshawar now renamed as Directorate of E&SE Khyber Pakhtunkhwa Peshawar came into existence & since then all the appointments/promotion of all categories of Ministerial Cadre have been regulated under the Service Rules notified by E&SE Department vide Notification No.SO (PE)/4-10/SSRC/Ministerial staff/2013 dated 28-01-2013, whereunder, the appellants were also promoted as Assistant Director (Admin) & Assistant Director (F&A) in BS-17 on regular basis vide Notification dated 29-8-2014, hence, the very first promotees under the new/revised Service Rules dated 28-01-2013.

Annex M-

Now therefore, in compliance of the order/judgement dated 27-02-2023 of the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 4980-01/2021 & having gone through the pro & contra evidences of the case on record, the undersigned being a competent authority, in the considered view that the appellants namely Ghulam Sarwar & Sherullah Ex-Assistant Directors are not entitled for antedation of promotion as Assistant Directors (BS-17) w.e.f. 08-01-1997 in terms of Service Rules/Notification bearing Encls. No.50(PE)/4-10/SSRC/Ministerial staff/2013 dated 28-01-2013 & hence their Departmental Appeals for promotion in question are hereby stand rejected with immediate effect in the interest of the justice.

Encls. No: 9-1

SECRETARY

Dated Peshawar the 28/3/2023

Copy forwarded for information & action to the:-

1. Learned Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
2. Learned AAG, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. Deputy Director (Legal) E&SE Khyber Pakhtunkhwa Peshawar.
4. Officials concerned.
5. PS to Secretary E&SE Department Khyber Pakhtunkhwa Peshawar
6. Master file.

29/3/23

Section Officer (Schools/Male) 28/3/23



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

MOST IMMEDIATE / COURT MATTER.

NO.SO (Lit-II) E&SED/1-3/ S.A#1067-68/15/Ghulam Sarwar & Sherullah
Dated Peshawar, the 23-08-2019. 71

To

The Director,
Khyber Pakhtunkhwa E&S Education,
Peshawar.

Subject:- APPEAL FOR CONSIDERATION OF COMPETENT AUTHORITY AS PER THE DECISIONS OF HON'ABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA IN SERVICE APPEALS NO.1067 AND 1068.

I am directed to enclose herewith a copy of letters No.892/ST 2019 No.893/ST dated 07-05-2019 of Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar. alongwith Judgment dated 09-04-2019 according to which;

Mr. Ghulam Sarwar and Mr. Sherullah Assistant Director (Admn), were working as Deputy Director (Admn), in DCTE, Khyber Pakhtunkhwa, Abbottabad and Assistant Director in Directorate of E&SE KP, Peshawar, remain aggrieved from the promotion since 07.01.1997 and 09.03.2006 respectively. As per the Promotion Order dated 29.08.2014 they were promoted from the post of Budget & Account Officer (BS-16) to the post Assistant Director (BS-17) with immediate effect. They prayed that their promotion were due to the post of Assistant Director (BS-17) from the date of availability of vacancy i.e. 07.01.1997 and 09.03.2006 respectively instead of 29.08.2014. Their counsel argued before the Service Tribunal that under the promotion criteria dated 09-05-1978 and 28.01.2013, the vacant posts of Assistant Director (Admn) & Assistant Director (F&A) BS-17 were to be filled from the Budget and Accounts Officers through promotion on the basis of seniority cum fitness. They further argued that both these posts were remained occupied by the junior most superintendents and other officers of the Department hence their promotion could not made.

The Hon'able Service Tribunal in its decision observed in Para-07 of judgment that admittedly, **there is no order of the appellant authority in relation to the grievance of the appellant. Therefore, the case is remanded to Secretary E&SE Depth (Respondent No.2) being appellate authority for decision of the departmental appeal of the appellant.**

In view of the position explained above, it is requested that their case may be considered thoroughly under the direction of the Hon'able Service Tribunal KP, Peshawar and a comprehensive report along with your candid opinion may please be furnished to this Department for perusal and decision of the Competent Authority as per the Tribunal direction at the earliest.

Encl: (as above)

Endst: of even No. & date.

SECTION OFFICER (LITIGATION)

Copy forwarded to the PA to Deputy Secretary (Legal), E&SED, Peshawar.

SECTION OFFICER (LITIGATION)



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.
No. 1393 / F.No. /A-23/MS/Appeal/Litigation Vol-II
Phone: 091-9225344 Email: ddadm.n.ese@gmail.com
Dated Peshawar the 30/9/2019

The Section Officer (Litigations)
Govt of Khyber Pakhtunkhwa
Elementary & Secondary Edu: Department

Subject:

APPEAL FOR CONSIDERATION OF COMPETENT AUTHORITY AS PER THE DECISIONS OF HON'S SERVICE TRIBUNAL KHYBER PAKHTUNKHWA IN SERVICE APPEAL NO 1067 AND 1068.

Memo:

I am directed to refer to your letter No SO(Lit-II)E&SED/1-3/S.A#1067-68/15/Ghulam Sarwar and Sherullah dated 23/08/2019 on the subject noted above and to state that:

1. As per Service Rules, the posts of Assistant Director (Admn) and Assistant Director (F&A) BS-17 are filled by promotion on the basis of seniority cum fitness from amongst the Budget & Accounts Officers having at least 2 year's services as B&AO.
2. Mr Fazle Khaliq Assistant Director BS-17 and Mr Rahimullah BS-17 retired from service on the age of 60 years on 07/01/1997 and 09/03/2006 respectively (Copies attached as Annex-A-I&II).
3. The posts of Assistant Director (Admin) and Assistant Director (F&A) remained occupied by junior officers on transfer, as stopgap arrangements till 2014; therefore no promotion case was processed till 2014.
4. On vacation of the post of Assistant Director (Admin) and Assistant Director (F&A), promotion order of the appellant's M/S Ghulam Sarwar and Sherullah standing at S.No. 1 and 2 of seniority list of B&AO, having 26 years and 22 years services as B&AO at their credit were made on 29/08/2014. (Copy attached at Annex-B).
5. Both the above aggrieved officers preferred departmental appeal which was submitted to competent authority vide this office Memo No.247 dated 01/01/2015, but the same could not be decided within stipulated time limit, copies attached at Annex-C.
6. Presently, both the appellants have been retired from service on 05/03/2016 and 13/11/2015 respectively and there is no other aggrieved 3rd party to be effected if the appeals of the appellants are considered/accepted except revision of their pension papers.
7. The appellants presented precedent regarding Ante dated promotions of different categories considered by E&SE Department (copies attached at Annex-D-I&II).
8. Furthermore, there is also several court decisions in favor of Ante-dated promotion wherein it has been decided that delay on the part of Department shall not suffer the Govt: employees (copies attached at Annex-E).

As per decisions of Hon's Service Tribunal Khyber Pakhtunkhwa in Service Appeal No 1067 and 1068, report is submitted with the request that this Directorate have got no objection on the consideration of appeals of the above officers from the date of vacation of the posts on the retirement of the officers mentioned at serial No 2 above please.

Endst: No.

1. Copy forwarded to the: -
PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

Deputy Director (F&A)
Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa, Peshawar.

Deputy Director (F&A)
Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa, Peshawar.

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GOVERNMENT OF KHYBER PAKHTUNKHWA
EDUCATION DEPARTMENT



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

MOST IMMEDIATE / COURT MATTER.

NO.SO (Lit-II) E&SE/D/1-3/SA/1067 & 1068/15/Ghulam Sarwar & Sherullah
Dated Peshawar, the 19-12-2019

To

The Director,
Elementary & Secondary Education,
Peshawar.

Subject: **APPEAL FOR CONSIDERATION OF COMPETENT AUTHORITY AS
PER THE DECISIONS OF HON'ABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA IN SERVICE APPEAL NO. 1067 AND 1068/2015.**

I am directed to refer to your letters No. 4393.F.No./A-23/MS/Appeal/Litigation
Vol-II dated 30-09-2019 and No. 4404/A-23/A-23/MS/Appeal Sherullah dated 10-12-2019
respectively on the subject noted above and to state that these letters were processed in the
Department. It was felt that these letters are not matching each other and there exists some
confusion to take clear-cut decision on these appeals.

In view of above, it is stated that to take a proper decision on their appeals, the
case of both these appellants namely Ghulam Sarwar and Sherullah (Retired) are to be prepared
properly and besides be prepared a speaking order as well. It is further added that clear-cut stance
of Directorate of E&SE with regard to their appeals may be shared with this Department to decide
the fate of their departmental appeals in light of the Honourable Service Tribunal decision.

This case has already been delayed inordinately. Avoid further delay

SECTION OFFICER (LIT-II)

Endst: of even No. & date.

Copy is forwarded to the:-

1. PA to Deputy Secretary (Legal) E&SE, Department.

SECTION OFFICER (LIT-II)

AD II

24/12/19

24/12/19

URGENT

AD II

03/09/2





GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

MOST IMMEDIATE / COURT MATTER.

REMINDER

NO.SO (LI-II) E&SED/1-3/SA # 1067 & 1068/15/Ghulam Sarwar & Sherullah
Dated Peshawar, the 01-01-2020.

To

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Reminder

✓ The Director,
Elementary & Secondary Education,
Peshawar.

Subject:

**APPEAL FOR CONSIDERATION OF COMPETENT AUTHORITY AS
PER THE DECISIONS OF HON'ABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA IN SERVICE APPEAL NO. 1067 AND 1068/2015.**

I am directed to refer to this Department letter of even number dated 19-12-2019 on the subject cited above and to state that the requisite reply/information is still awaited from your end.

It is, therefore, once again requested to expedite the reply in the instant case to decide it by the Competent Authority.

SECTION OFFICER (LIT-II)

Endst: of even No. & date.

Copy is forwarded to the:-

1. PA to Deputy Secretary (Legal) E&SE, Department.

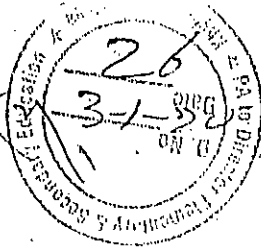
SECTION OFFICER (LIT-II)

OK

AD II

7/3/20

AD II



Directorate of E&SE KP, Peshawar
No. 4404 /A-23/MS/Appeal Sherullah
& Ghulam Sarwar
Date Peshawar the 10-12 /2019

To

The Section Officer (Litigation)
Government of Khyber Pakhtunkhwa,
E&SE Department, Peshawar.

Amended

(25)

Subject:- **APPEAL FOR CONSIDERATION OF COMPETENT AUTHORITY AS PER
THE DECISIONS OF HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA IN SERVICE APPEAL NO. 1067 AND 1068**

Memo,

I am directed to refer to your letter No. SO(Lit-II)E&SED/1-3/SA#1067-1068/15/Ghulam Sarwar and Sherullah dated 17-10-2019 on the subject cited above and to submit that the subject case has been re-examined by the concerned/incumbent DD (F&A) of this Directorate in the context of history/back ground of the case and factual position in chronological order is submitted as under for your kind perusal:-

1. The Service Rules for the posts of AD (Admn) and AD (F&A) as referred to in para-1 of this office letter No. 4393 dated 30-09-2019 have been promulgated/enforced and notified by the E&SE Department in the year-2013 vide Notification No.SO(PE)/4-10/SSRC/Ministerial Staff/2013 dated 28/01/2013, Whereas,
2. At the time of posting/adjustment Mr. Fazle Khaliq Assistant Director and Mr. Rahimullah Assistant Director (as mentioned in para-2 of this office letter cited above) the Service Rules and nomenclatures of the posts of Assistant Directors were different. Such as Mr. Fazle Khaliq was promoted to BS-17 on regular basis as Assistant Director (Private Schools) not AD (Admn) in the erstwhile Directorate of Education (Schools) NWFP, Peshawar in the year-1990-91 under the Service Rules of Ministerial Establishment notified in the year 1978 and the said Service Rules have been superseded in the year 2013 vide Notification No. SO(PE)/4-10/SSRC/Ministerial Staff/2013 dated 28/01/2013 referred to above. Whereas, Mr. Rahimullah was just posted/adjusted against the post of Assistant Director (Admn) in the former Directorate of Primary Education NWFP Peshawar in the year-1995 on his own pay & grade and he was not promoted as AD in BS-17 on regular basis as claimed by the appellants concerned.
3. It is worth mentioning that the grievances of the appellants relates to the period of Ex-Directorate of Education (Schools) NWFP, Peshawar which was bifurcated into two separate entities i.e. Directorate of Secondary Education NWFP, Peshawar and Directorate of Primary Education NWFP, Peshawar in the 1991. Mr. Fazle Khaliq AD was working in the Directorate of Secondary Education NWFP, Peshawar and Mr. Rahimullah AD was working in the Directorate of Primary Education NWFP, Peshawar.
4. In the wake of retirement of Mr. Fazale Khaliq AD and Mr. Rahimullah AD, both the Directorates i.e. Directorate of Secondary Education NWFP, Peshawar and Directorate of Primary Education NWFP Peshawar were devolved as a result of Devolution of Powers

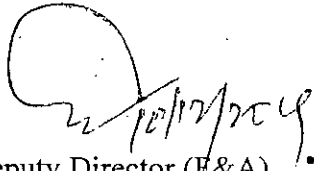
Plan in the year 2001 and one Directorate i.e. Directorate of (Schools & Literacy) NWFP Peshawar now renamed as Directorate of E&SE KP, Peshawar come to existence. Future appointment/promotion of all categories of Ministerial Cadre are now regulated under the Service Rules notified by the E&SE Department on SO(PE)/4-10/SSRC/Ministerial Staff/2013 dated 28/01/2013 as referred in para-1 above the rules under which the appellants were too promoted as AD (Admn) and AD (F&A) BS-17 on regular basis in the year-2014 on their turn on seniority-cum-fitness basis.

5. The promotion of Mr. Fazle Khaliq to the post of AD (Private Schools) BS-17 (Regular) was the last promotion in the year 1991 under the old Service Rules-1978. Thereafter, the Service Rules for promotion of Ministerial Cadre have been changed/superseded in the year-2013 referred to above and the appellants were the very first promotees under the said new/revised Service Rules of 2013.
6. As regard request/stance of appellants concerned for their "ante-date promotion" it is elaborated that under Section-VI of KP Promotion policy-2009 "promotion will always be notified with immediate effect"
7. Apart from above, in numerous High Courts and Supreme Courts Judgments request/pray for grant of "ante-date promotion" have been dismissed. In the said judgments the learned Courts held that "Promotion is not a vested right. Civil servant could not claim or ask for a promotion as a matter of right. Promotion could not take place automatically and seniority alone is also not a deciding factor, as number of factors constitutes fitness for promotion. Promotion is neither a vested right, nor it could be claimed with retrospective effect. Whenever there was a change of grade or post for the better, there would be an element of selection involved which would be promotion and the same could not be earned automatically. (quoted from PHC WP No.2271/2009 decided on 21-01-2014).
8. In similar cases, promotion in respect of retired civil servant was held not admissible under the rules, in the following words "Virtually, it is not a case of antedation, but of granting promotion from back date to the retired officer, which could not be allowed under the law" The same view was reiterated by the august Supreme Court of Pakistan in case (2006 SCMR 1324).
9. Likewise, the Court also set aside request for retrospective, pro forma promotion in respect of retired civil servant was held not admissible under the rules, in the following words "the petitioner has also got retired from service attaining the age of superannuation and in this eventuality, ^{they} he could not be considered for promotion with retrospective effect." Wisdom may be drawn from the judgment of apex Court in case titled 'Abdul Hameed v. Ministry of Housing and Work, Government of Pakistan, Islamabad' (PLD 2008 SC 395) concluded by the learned Court.
10. Summing up, it is reiterated that the promotion case of Mr. Fazle Khaliq to the post of AD (Private Schools) BS-17 (Regular) pertained to a separate entity and separate Service Rules of 1978. Mr. Raimullah was adjusted against AD post on his own pay & scale. He was not promoted in BS-17 on regular basis. Suppose, if ante-date promotion is

admissible under the rule, then it is Mr. Rahimullah Ex-AD and his other retired counterparts who are due for ante-date promotion and not the appellants concerned i.e. Mr. Sherullah and Mr. Ghulam Sarwar Ex-Assistant Directors.

As regard query regarding not filling CPLA as mentioned in your letter under reference is concerned, it is explained that the subject case has been remanded to the appellate authority by the Service Tribunal vide judgment dated 09/04/2019, hence the question of filling CPLA does not arise at the moment.

Report is submitted, please.


Deputy Director (F&A)



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.
No. 2695 /F.No. /A-23/MS/Appeal/Litigation Vol-II
Dated Peshawar the 25-9-2020
Email: ddadm.e.se@gmail.com
Phone: 091-9225344

To
The Section Officer (Litigations-II)
Govt. of Khyber Pakhtunkhwa
Elementary & Secondary Edu: Department

Subject: APPEAL FOR CONSIDERATION OF COMPETENT AUTHORITY AS PER THE DECISIONS OF HON'S SERVICE TRIBUNAL KHYBER PAKHTUNKHWA IN SERVICE APPEAL NO 1067 AND 1068.

(78)

Amud-3

Memo:

I am directed to refer to your letter No SO(Lit-II)E&SED/1-3/SA#1067-68/15/Ghulam Sarwar and Sherullah dated 19/12/2019 on the subject cited above and to submit that the subject case was thoroughly examined and studied in depth impartially in the light of this office both letters reflected in your above quoted reference i.e 4393 dated 30/09/2019 and 4404 dated 10/12/2019 and the following factual position was found that":

1. The appellants were promoted to BPS-17 regular as Assistant Director (Admn). and Assistant Director (F&A) on the basis of seniority list cum fitness w.e.f 29/08/2014 with immediate effect and the appellants submitted their appeals during service requesting for Antidation of their promotion w.e.f the availability of vacancy as one Fazle Khaliq Assistant Director and Rahimullah Assistant Director were retired at the age of 60 years w.e.f 07/01/1997 and 09/03/2006 (copies attached). and the department did not made any promotion after these dates till 29/08/2014 and these posts were occupied through transfers on own pay scale by junior officials till 29/08/2014.

- i. The reference of 2006 SCMR 1324 made at S.No.8 and PLD 2008 Supreme Court 395 at S.No. 9 of this office letter No 4404 dated 10/12/2019 is due to oversight shown against the appellants whereas the reference 2006 SCMR 1324 and PLD 2008 Supreme Court 395 actually is in favour of the appellants, on the following grounds:-
- ii. The appellant referred in SCMR 2006, 1324 was retired on 03/10/1995 and lodged appeal on 31/10/2000 after elapse of about six years thus the court rejected his appeal, as no promotion after retirement can be allowed.
- iii. Same is the case of PLD 2008 Supreme Court 395 with the direction at S.No.6

"It may be noted that the question of antedating promotion would only arise in case if, the petitioner was already promoted,"

(both judgments attached).

As such these both references quoted by this office falls in favour of the appellants and not against them as Ghulam Sarwar & Sherullah both were already promoted and applied for Antidation promotion while in service.

Next Page

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Therefore, it is crystal clear that the current under references appeals are of Antidation and not back dated promotion.

2. The appellants have produced various references/judgments of Courts in favour of Antidation promotion (copies attached).
3. It is also clarified that the existing service rules through which the appellants were promoted as Assistant Director (Admn) and Assistant Director (P&A) BPS-17 regular comes into being on 28/01/2013 (copy attached) and the appellants were promoted w.e.f 29/08/2014 after the laps of one year and 8th months (copy of promotion order attached), and before these current service rules there were the service rules for promotion to BPS-17 regular but only there was the difference of nomenclature of posts i.e before 2013 these posts were called/nominated as Administrative Officer/Assistant Director Schools etc. (copy attached)
4. It is also clarified that the appellants have based their case on the service tribunal KPK Judgment in appeal 724/2002 dated 27/08/2002, upheld by Honorable Supreme Court of Pakistan in Civil Petitions No.35-P to 51-P and CP 301-P of 2007, wherein it has been directed that the Govt servants shall not suffer at the hands/lapses on the part of department as they are always anxious of their promotion or getting their benefits at the earliest.

The appellants further contend and quoted reference of Honorable Supreme Court of Pakistan the question of giving promotion with immediate effect means when the promotion vacancy is available and seniority cum fitness is ok, then promotion shall be given immediately but in their cases their promotions is not actually with immediate effect but actually it is delayed i.e after the laps of so many years.

This office submit the case after thorough/deep and quite impartial examination of their appeals as per remarks noted in last paragraph of this office letter No.4393 dated 30/09/2019.

Encls: AS ABOVE

Endst: No. 2896

O/C

[Signature]

Assistant Director (Lit)
Directorate of E&SE KP, Peshawar.

Copy forwarded to the:-

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

O/C

[Signature]

Assistant Director (Lit)
Directorate of E&SE KP, Peshawar.

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READABLE COPY

OFFICE OF THE DIRECTOR SCHOOLS AND LITERACY N.W.F.P PESHAWAR.

NOTIFICATION.

The Director Schools and Literacy NWFP, Peshawar is pleased to accord sanction to the grant of Encashment /LPR/Retirement from Govt: Service/Leave with effect from the dates noted against each on full/half/with out pay, as due and admissible to him/her/them under the provision of Rules, 20 of NWFP, Govt Servants Revised Leave Rules 1981 in favour of the following Officers(s) teachers(s).

S.No.	NAME/DESIGNATION/ SCHOOLS/OFFICE.	RETIREMENT/PERIOD OF LEAVE	REMARKS
1.	Mr. Rahimullah Assistant Director (Admn) BPS-17 Directorate Literacy & School Peshawar	Retirement date w.e.f 9.03.2006(an) Encashment of LPR 180 days on full pay.	

**DIRECTOR SCHOOLS AND LITERACY
N.W.F.P PESHAWAR**

Indst: No. 3049-53

Dated Peshawar the 26-01-2006.

Copy forwarded for information & necessary action to the: -

1. Accountant General NWFP, Peshawar.
 2. Executive District Officer(S&L) concerned.
 3. District Accounts, Officer concerned.
 4. Principal/Headmaster/Headmistress concerned.
 5. Officer/Official concerned.
 6. PA to Director Schools and Literacy NWFP, Peshawar.
 7. Cashier local Directorate.
- ✓

Sd/
DEPUTY DIRECTOR (F/A)
SCHOOLS AND LITERACY NWFP PESHAWAR.

(C) (S) (P)

OFFICE OF THE DIRECTOR SCHOOLS AND LITERACY N.W.F.P. PESHAWAR.
NOTIFICATION NO. /

The Director Schools and Literacy NWFP, Peshawar is pleased to accord sanction to the grant of Encashment/LPR/Retirement from Govt: Service/Leave with effect from the dates noted against each on full/half/with out pay, as due and admissible to him/her/them under the provision of Rules, 20 of NWFP, Govt: Servants Revised Leave Rules 1981 in favour of the following Officers(s) teachers(s).

S.No.	NAME/DESIGNATION/ SCHOOLS/OFFICE.	RETIREMENT/PERIOD OF LEAVE	REMARKS.
1.	Mr. Bahadur, Assistant Director (A. W. P.) Peshawar	Retirement date (w.e.f. 9.8.2006)	Encashment of 15% gratia on full pay.

DIRECTOR SCHOOLS AND LITERACY
 N.W.F.P. PESHAWAR.

Dated Peshr the 26/11/2006

Endst: No. 3049-83

Copy forwarded for information & necessary action to the:-

1. Accountant General NWFP, Peshawar.
2. Executive District Officer (S&L) concerned.
3. District Account Officer concerned.
4. Principal/Headmaster/Headmistress concerned.
5. Officer/Official concerned.
6. PA to Director Schools and Literacy NWFP, Peshawar.

Abdul Jabbar
 A.A. O/C

7-26/11/06 F/A
 DEPUTY DIRECTOR (ESTABLISHMENT)
 SCHOOLS AND LITERACY NWFP PESHAWAR.

Government is pleased to sanction encashment of Leave Salary in lumpsum in favor of Mr. Khalid Khalique Khan Assistant Director in Directorate of Secondary Education NWFP, Peshawar for the period of 180 days.

(82)

The officer is going to be retired from service w.e.f 7.1.1997 on the age of 60 years.

SECRETARY TO GOVT. OF NWFP
EDUCATION DEPARTMENT

Endst. No. SO(S) P-179 (1) Dated Peshawar, the 17.12.96.

- 1. Director Secondary Education NWFP Peshawar.
- 2. Accountant General NWFP Peshawar.
- 3. Officer concerned.

(M. ILYAS)
Section officer (Schools)

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Rules
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(83)

North West Frontier Province - Education Department

Dated Peshawar the, 9-5-1978.

Notification.

No.S.O © 5-2/70 (E). In exercise of the Power conferred by sub-rule (2) of Rule 1975, and in consultation with the Information, Services and General Administration Dept and the Finance Department, the Education Department is pleased to lay down the method of Appointment, qualification and other conditions specified in column 3 and 6 of the Appendix this notification, which shall be applicable to posts borne on the Ad ministerial establishments of the Education Department specified in column 2 of the Appendix.

Captain Afzal Ahmad Khan
Secretary to Government of
North West Frontier Province,
Education Department.

Enclst: No.S, O (Coll) 5-2/70 (E) : Dated Peshawar the, 9-5-1978.

1. The Secretary, Services and General Administration Department, Government of NWFP, Peshawar.
2. The Secretary to Government of NWFP Finance Deptt: Peshawar.
3. The Secretary to Government of NWFP Law Department, Peshawar.
4. The Secretary to NWFP, Public Service Commission, Peshawar.
5. The Manager, Government Printing Press, Peshawar, with the request that the Notification along with the appendix, may please be published in the next issue of Provincial Gazette and one hundred spare copies of the same may also be supplied to the Director of Education NWFP Peshawar, for further distribution. The printing Press may also arrange its publication for sale purpose according to the requirement.
6. The Director of Education, NWFP, Peshawar.
7. The Accountant General, NWFP, Peshawar.

\$\$ Saleem Janbaz \$\$

(Syed Noor Badshah)
Section Officer (Colleges)
Government of NWFP. Edu. Deptt:

J. Shaid

Shir Ali

(Hussain Shah)
Section Officer (Admn)

J. S. Ahmad
Shahid
Minister

Section Officer (Admin)
Hussain Shah

1.	2.	3.	4.	5.	6.
5.1.	Senior Clerk				By promotion on the basis of seniority - Cum - Fitness etc amongst holders the posts of Junior Clerks / Asstt: Store Keepers / Laboratory Asstt./Junior Libraries By initial recruitment
6.	Junior Clerk / Assistant Store Keepers Library Assistant / Junior Librarian	a. Matriculation or equivalent qualification from a recognized University / Board with Science group for Laboratory Assistant b. Speed of 25 words per minute in English typing		Not less from 18 years and not more than 25 years	By initial recruitment
7.	Stenographers	a. Matriculation or equivalent qualification from a recognized University / Board. b. Speed of 100 words per minute in short hand in English and 45 words per minutes in typing	Not less than 16 years and not more than 25 years		i. 25% by initial recruitment and ii. 75 % by promotion on the basis of seniority -cum-fitness from amongst the holders of posts of Steno Typist
8.	Steno - Typist	a. Matriculation or equivalent qualification from a recognized University / Board. b. Speed of 80 words per minute in short hand in English and 35 words per minute in typing. c.		Not less than 18 years and not more than 35 years	By initial recruitment.

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(Signature)

(Signature)

APPENDIX

METHOD OF APPOINTMENT, QUALIFICATION AND OTHER CONDITIONS
APPLICABLE TO MINISTERIAL POSTS IN THE EDUCATION DEPARTMENT

Sr. No.	Womenculture of the post	Minimum Qualification Prescribed for Appointment by Initial Recruitment and Transfer	Minimum Qualifications for Appointment and Promotion	Age Limit for Appointment by Initial Recruitment	Method of Appointment
	2	3	4	5	6
1.	Administrative Officer / Assistant Director (Colleges) / Assistant Lecturer (School)		<i>change of nomenclature</i>		By promotion on the basis of seniority - Cum - Fitness from amongst holder the post of Assistant Director Establishment and Assistant Accounts Officer
2.	Assistant Director Establishment / Assistant Accounts Officer				By Promotion on the basis of seniority - cum - fitness from amongst the holders of the posts of Superintendents
3.	Superintendents				By promotion on the basis of seniority - cum - fitness from amongst the holders of the posts of Assistants / Head Clerks Stenographers
4.	Assistants / Head Clerk	Degree from a recognized University		Not less than 19 years and not more than 25 years	(i) 25% by initial recruitment and (ii) 75% by promotion on the basis of seniority - cum - fitness from amongst the holders of the posts of Senior Clerks.

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BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.

Appeal No. 774/2002

Date of institution - 17.08.2002

Date of decision - 15.08.2006

Ghulam Rasool, Ex-ASDEO (Accounts),
Office of the E.J.O. (S&L) Buner.....(Appellant)

VERSUS

1. Director of Schools & Literacy NWFP
Peshawar.
2. Secretary Schools & Literacy NWFP.
3. Secretary Finance NWFP Peshawar.
4. Chief Secretary NWFP Peshawar.....(Respondents)

M/S Anwarul Hassan & Shafiullah Advocates.....For appellants.
Mr. Zaffar Abbas Mirza, Addl. Govt. Pleader.....For respondents.

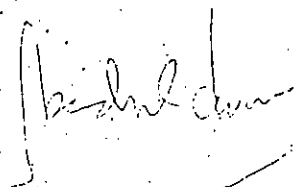
MR. ABDUL KARIM QASURIA.....MEMBER.
MR. FAIZUL AH KHAN KHATTAK.....MEMBER.

JUDGMENT

ABDUL KARIM QASURIA, MEMBER - This appeal has
been filed by the Ghulam Rasool appellant against the orders dated
7.3.2002 and 14.7.2002 whereby he was not granted selection grade
BS-17 w.e.f. 30.10.1993 with the prayer that the impugned order

may be set aside and he be granted selection grade BS-17 w.e.f. 30.10.1993.

2. Brief facts of the case are that the appellant was employed under respondents No. 1 and 2 and retired from service on 1.8.2001 as Assistant Sub Divisional Education Officer (Accounts) from the office of EDO (S&L) Buner. During his service the appellant was promoted from the post of Superintendent to the post of ASDEO (Accounts) in BS-16 vide order dated 4.8.1987. Vide order dated 30.10.1993 the Finance Department allowed selection grade BS-17 to the Administrative Officer/Account Officer/Assistant Accounts officer at the ratio of 33% of their total strength alongwith Superintendents and also issued a clarification vide letter dated 31.1.1994 regarding awarding selection grade BS-17 to various officers. In order to extend the said benefits to various officers in BS-16, respondent No. 2 issued a Notification dated 29.8.1994 wherein various categories of officers in BS-16 were brought at par. In spite of clear cut orders of the Government and clarification, the selection grade was only allowed to the Superintendents BS-16 w.e.f. 30.10.1993 while other categories of officers BS-16 who were at par with the Superintendents were left. Respondent No. 2 issued a Notification dated 6.2.1997 bringing



various categories of officers at par with one another by amending the Service Rules. Respondent No. 2 issued the impugned order dated 7.5.2002 under which the AEDO (A), Budget Officer, Audit Officer, Account Officer BS-16 of Education Department were granted selection grade BS-17 but the appellant was granted selection grade w.e.f. 19.7.1993 instead of 30.10.1993 under this Notification against which the appellant preferred a departmental appeal on 1.7.2002 but the same was rejected on 31.7.2002. Hence the instant appeal.

3. The respondents have filed the written reply in which the claim of the appellant has been opposed by raising legal objections. The appellant also filed the replication rebutting the objections raised by the respondents.

4. The learned counsel for the appellant argued that the appellant was promoted from the post of Superintendent to the post of Assistant Sub Divisional Education Officer (Accounts) in BS-16 vide order dated 4.8/19.7. Respondent No. 3 vide Notification dated 30.10.1993 allowed selection grade BS-17 to the Administrative officer/Accounts Officer/Assistant Accounts Officer at the rate of 33% of their total strength alongwith Superintendents on the joint seniority list.

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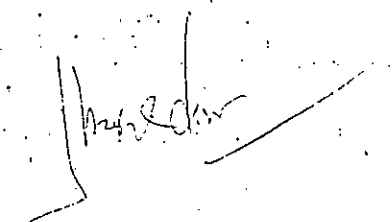
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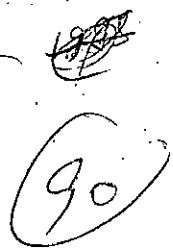
Respondent No. 3 vide Notification dated 31.1.1994 issued a clarification regarding grant of selection grade to various categories of officers. It was stated that condition of amendment in the service rules as referred to in para-2 of respondent No. 2 letter dated 30.10.1993 will not be applicable on the department/offices where no post of Accounts officer/Assistant Accounts Officer or similar other post exists which requires to be filled in by promotion from amongst Superintendent BS-16. In that case the grant of selection grade was made effective from 30.10.1993 while in case of amendment in the rules it was to be effective from the date of amendment in the Service Rules. The counsel further argued that respondent No.2 vide Notification dated 28.8.1994 brought various categories of posts in BS-16 at par. But inspite of the above equality of the posts only the Superintendents were given selection grade w.e.f. 1993 while for the incumbents of other posts the condition of amendment in the Service Rules was made and resultantly deprived them from their due rights of grant of selection grade from 30.10.1993. The rules were amended by respondent No. 1 vide Notification dated 6.2.1997 by bringing various categories at par. Respondent No. 1 vide impugned Notification dated 7.5.2002 granted selection grade BS-17 w.e.f. 19.7.1999 as per joint seniority list of ADEO (A)/Budget Officer/Audit Officer/Accounts

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Officer (BS-16) Keeping in view the above facts the appellant has been discriminated against. The counsel stated that the impugned orders are against natural justice, unlawful, arbitrary and malafide. It was also argued that issuance of Notification dated 6.2.1997 is the repetition of Notification dated 29.8.1994 which only delayed the grant of selection grade which was allowed w.e.f. 30.10.1993.

5. The AGI opposed the contention of the appellant stating that the issue of grant of selection grade to the appellant has been disposed of as per policy and instructions contained in letter of respondent No. 3 dated 30.10.1993 and 31.1.1994. The amendment in the Service Rules was made on 6.2.1997 and the selection grade was allowed vide letter of respondent No. 3 dated 30.10.1993. He refuted the contention of the appellant that any discriminatory treatment was meted out against the appellant but the entire action of the respondent is covered under the prevailing rules/instructions. The instruction/policy contained in letter dated 30.10.1993 issued by respondent No. 3 is very much clear and no deviation has been made from that policy.





6. After listening to the arguments and perusal of the record, it is evident that selection grade was allowed as per general principle w.e.f. 30.10.1993 but a condition in para-3 (last para) of letter dated 30.10.1993 issued by respondent No. 3 was placed turning up the grant of selection grade with effect from the date of amendment in the Service Rules which adversely affected the benefits accrued to the appellant in the grant of selection grade. The amendment in the service rules was completed in the year 1997 which is a very lengthy period while there is no plausible explanation with the respondent department for such a long delay. The Tribunal also feels that while there was no such bar in respect of the department in which only the post of Superintendent existed as per respondent No. 3 letter dated 31.1.1994 but delaying the same benefits to the other categories on the pretext of amendment in the Service Rules which was delayed for six years, is not justified. Reliance is also put on the NWFP Tribunal decision dated 17.3.2001 in Appeal No. 813/1999 in which the benefit of selection grade was allowed w.e.f. 30.10.1993 instead of 17.3.1997 the date on which Rules were reversed.

7. The Tribunal therefore, keeping in view the principle of consistency and being the present appeal of identical nature accept

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the appeal and allow grant of selection grade w.e.f. 30.10.1993 as per the seniority position of the appellant and modify the impugned order dated 7.5.2002 to that extent.

8. Our this single judgment will also dispose the other connected appeals bearing No. 893/2002 Karim Bakhsh, 894/2002 Mukhtiar Ahmad, 895/2002 Fazlur Rehman, 896/2002 Jamshed Jan, 897/2002 Muhammad Khan, 898/2002 Gul Habib, 899/2002 Abdul Wahab, 918/2002 Muhammad Suleman, 919/2002 Sajid Khan, 920/2002 Ghulam Nabi Malik, 1004/2002 Gjulam Sarwar, 1005/2002 Ali Asghar, 1006/2002 Iltaf Hussain Gohar, 1049/2002 Abdul Qayyum, 1050/2002 Buzur Jamheer and 388/2003 Subaidar Khan Versus Secretary Education NWFP etc, being identical nature and involves common questions of law and facts.

9. No order as to costs. File be consigned to the record after completion.

ANNOUNCED
15.08.2006.

(FAIZULAH KHAN KHATEEK)
MEMBER.

(ABDUL KARIM QASURIA)
MEMBER.

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

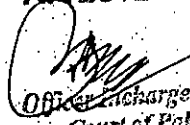
Present

Mr. Justice Iflikhar Muhammad Chaudhry, CJ.
Mr. Justice Ch. Ijaz Ahmed
Mr. Justice Khilji Arif Hussain

CIVIL PETITIONS NO.35-P TO 51-P & CP.301-P OF 2007

(On appeal from the judgments/order dated
15.08.2006 & 08.12.2006 passed by NWFP
Service Tribunal, Peshawar in Appeals No.
724, 893-899, 918-920, 1004-1006, 1049,
1050/2002, 388/2003 & 675/2006)

Director of Schools & Literacy, NWFP, Peshawar and others	Petitioners. (in all cases)
Versus	
Ghulam Rasool	Respondent. (in CP.35-P/2007)
Kariin Bakhsh	Respondent. (in CP.36-P/2007)
Mukhtiar Ahmed Nashad	Respondent. (in CP.37-P/2007)
Fazal Rehman	Respondent. (in CP.38-P/2007)
Jamshed Khan	Respondent. (in CP.39-P/2007)
Muhammad Khan	Respondent. (in CP.40-P/2007)
Gul Habib	Respondent. (in CP.41-P/2007)
Abdul Waqar	Respondent. (in CP.42-P/2007)
Muhammad Suleman	Respondent. (in CP.43-P/2007)
Sajid Khan	Respondent. (in CP.44-P/2007)
Ghulam Nabi Malik	Respondent. (in CP.45-P/2007)
Ghulam Sarwar	Respondent. (in CP.46-P/2007)

ATTESTED

Officer in Charge
Supreme Court of Pakistan
Peshawar

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CP.35-P/2007, etc.

Asghar Ali

Respondent.
(in CP.47-P/2007)

Haf Hussain Gbhar

Respondent.
(in CP.48-P/2007)

Abdul Qayyum

Respondent.
(in CP.49-P/2007)

Buzur Jamheer

Respondent.
(in CP.50-P/2007)

Subedar Khan

Respondent.
(in CP.51-P/2007)

Muhammad Yousaf Alqadri

Respondent.
(in CP.301-P/2007)

For the petitioners
(in all cases)

Mr. Qaiser Rasheed, Addl. AG.

For the respondents
(in all cases)

Mr. Imtiaz Ali, ASC.
Mr. Tasleem Hussain, AOR.

Date of hearing


05.03.2010.

ORDER

IFTIKHAR MUHAMMAD CHAUDHRY, C.J. - These petitions, for leave to appeal, have been filed against the judgments dated 15.08.2006 and 08.12.2006 passed by NWFP Service Tribunal, Peshawar whereby appeals filed by the respondents have been allowed as a result whereof they have granted selection grade.

2. Brief facts of the case, relevant for disposal of instant petitions are that the Secretary, Finance Department, Government of NWFP (petitioner No.3) vide notification dated 30th October 1993, allowed selection grade BPS-17 to Administrative Officer/Accounts Officer/Assistant Account Officer at the ratio of 33% of their total strength along with the Superintendent on the joint seniority list. In order to extend the said benefits to various officer in BPS-16,

ATTESTED


Court of Pakistan
Peshawar

Director Schools and Literacy, Education Department, NWFP Peshawar
(petitioner No.2) issued a notification dated 29th August 1994, wherein various categories of officers in BS-16 were brought at par by amending the Service

CP.35-P/2007, etc.

Rules. however, selection grade was only allowed to Superintendents BS-16 w.e.f 30.10.1993 while other categories of officers in BS-16 were left. Petitioner No.2, subsequently issued order dated 7th May 2002, under which the AEDO (A), Budget Officer, Audit Officer, Account Officer in BS-16 of the Education Department were granted selection grade BS-17 but the respondents were granted such grade w.e.f 19th July 1999 instead of 30th October 1993. Feeling aggrieved, the respondents challenged the said order before the NWFP Service Tribunal, who by means of impugned judgments granted them selection grade BS-17 w.e.f. 30th October 1993. As such instant petitions for leave to appeal have been filed.

3. Learned Additional Advocate General NWFP stated that the respondents were entitled for selection grade BS-17, subject to certain conditions, laid down in the letter dated 30th October 1993, including the amendments in the respective Recruitment and Appointment Rules. As according to him these Rules were amended on 6th February 1997 and joint seniority list was also prepared in the meantime; therefore, they have been found entitled for selection grade w.e.f. 17th June 1999 but the Service Tribunal granted them selection grade w.e.f. 30th October 1993, therefore, according to him impugned judgments are not sustainable.

4. Learned counsel appearing for the caveat, however, opposed the petitions and stated that Service Tribunal had done nothing except enforcing/implementing the policy of the Government mentioned in letter 30th

TESTED October 1993, on the basis of which respondents were entitled for selection grade. As far as question of amending the respective Recruitment and Appointment Rules and preparation of joint seniority list of officers in BS-17 is concerned, it is the job of the petitioners, therefore, the respondents should not be allowed to suffer at the hands of the department.

Incharge
Court of Pakistan
Peshawar

(30) (70) (28) (96)

5. We have heard the learned counsel for the parties and have also carefully gone through the impugned judgment passed by the Service Tribunal. There is no doubt that on 30th October 1993, Government issued a policy letter, laying down a criterion for granting selection grade BS-17 to grade BS-16 officers to the extent of 33% but the respondents were not allowed the benefit of the same for one or the reason and ultimately they have to approach Service Tribunal. A careful perusal of the impugned judgment indicates that the Tribunal has not passed an order beyond the scope of policy letter dated 30th October 1993. As far as the discretion of the Government to amend the Recruitment and Appointment Rules is concerned, it was the duty of the Government to prepare and issue the joint seniority list of the Administrative Officers and the Superintends and make the amendments, without any delay, after issuance of the letter. Service Tribunal in fact has enforced the policy letter dated 30th October 1993.

Impost

6. It is pertinent to mention here that the department cannot be allowed to sleep for any indefinite period to amend the rules and to prepare seniority list at the cost of the respondents, who are government employees and they are always anxious about their promotion or to get benefit of the service as early as could be possible. Unfortunately, in instant case, after issuance of the policy letter dated 30th October 1993 rules were amended in 1997 but perhaps the seniority list was prepared later on and on account of such slackness, the respondents had suffered a lot and ultimately in 2001 they were given selection grade and in the meantime, some of them stood retired. We are, therefore, of the opinion that under these circumstances the Service Tribunal has rightly granted relief to the respondents and judgments passed by it, being unexceptionable, admit no interference by this Court.

TESTED

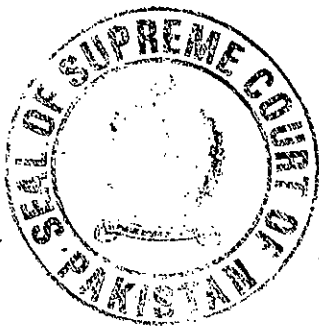
[Signature]
Judge
Court of Pakistan

7. It is informed by the learned counsel appearing for the respondents that despite lapse of about more than 16/17 years, the judgments of

CP.35-P/2007, etc.

the Service Tribunal, passed in favour of the respondents, have not been implemented. In such state of affairs, we direct the concerned authority to implement the same within a period of four weeks and send a compliance report to the Registrar of this Court, for our perusal in Chambers. Learned Additional Advocate General is directed to communicate these directions to the concerned authorities to ensure its compliance in letter and spirit.

Thus for the foregoing reasons, petitions are dismissed and leave declined.



Peshawar,
05.03.2010.

sd/- Jazlikhan Muhammad Chaudhry
sd/- Ch. Ijaz Ahmed, J
sd/- Khilji Areeq Hussain, J

11
Certificate to
Office of
Supreme Court of Pakistan
Peshawar

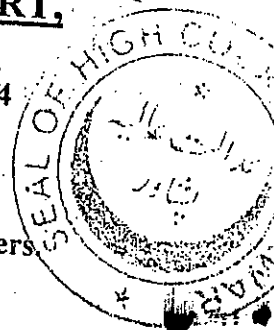
NOT APPROVED FOR REPORTING.

Case No.	757-P/2010
Date of presentation	25-3-2010
Applicant	1500
No of Words	15
No. of Pages	5
Requisition Fee	9.30
Copying Fee	14.30
Court Fee	30-3-2010
Date of Decision	31/3/10
Compliance	Copy
Received by	Asad Kamel Khan
Total	14.30
Advocate	6/7
Escheat	8.30

PESHAWAR HIGH COURT,
PESHAWAR

Writ Petition No.2334 -P of 2014

Niaz Muhammad
Vs.
Chief Executive LRH, and five others.
JUDGMENT



Date of hearing.....08.12.2015.....

Petitioner(s) by. Mr. Ibadur Rehman Advocate.

Respondent(s) by. Mr. Shakeel Ahmad Advocate.

MUHAMMAD YOUNIS THAHEEM, J.- Niaz

Muhammad, the petitioner, seeks constitutional jurisdiction of this Court praying:

“On acceptance of petition, respondents No.1 and 2 be directed to consider the petitioner for promotion to the post of Junior Clerk and promote the petitioner from the date when his juniors were promoted with all back benefits.

2. In essence grievance of petitioner is that he is serving as Ward Orderly in Lady reading Hospital, Peshawar, since 1987; that for promotion of class-IV, a seniority list was prepared wherein the petitioner was reflected at S.No.4, but without observing seniority list

ATTESTED

EXAMINER

Peshawar High Court

04 JAN 2016

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the respondents No.3 to 6 were promoted to the post of Junior Clerk, while the petitioner was ignored from promotion without any lawful reason. The petitioner approached the respondents personally and through written requests for his promotion, but in vain, hence, the instant writ petition.

3. The respondents 1 and 2 submitted their comments, wherein they admitted his service since 13.06.1987.

4. Arguments heard and available record perused.

5. The main contention of learned counsel for petitioner is that, petitioner is serving as ward orderly since 1987 and according to seniority list (Annexure-E), he was eligible and fit for promotion being at S.No.4, but despite the fact persons junior to him have been promoted, which act of the respondents is illegal, against the law, discriminatory, without lawful authority, so be set at naught.

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ATTESTED
EXAMINER
Bastogi High Court

5. The respondents have neither disputed the seniority list in their comments nor during the course of arguments, rather relied upon the seniority list placed on file as Annexure-E, wherein the petitioner has been shown at S.No.4. The respondents No.1 and 2 have promoted M.r Salahuddin, Muhammad Ali and Muhammad Shafiq, from the post of Ward orderly to the post of Junior Clerk vide order No.1206-12 dated 17.05.2013, who as per seniority list are at S.No. 1, 2 and 5 respectively. The respondents have also promoted Mr. Johar Shah and Mr. Shamsher Khan Ward Orderlies, to the posts of Store Keeper, vide order dated 29.05.2013, who are at S.No.6 and 7 respectively. The respondents No.1 and 2 have also promoted one Mst. Miraj Bibi Ward Aya to the post of Junior Clerk, vide order No.15535-39 dated 17.05.2013. It is very much astonishing to note that according to seniority list, the petitioner was at S.No.4 and despite being fit, has not been promoted, while the respondents No.3 to 6, junior to him in seniority had been promoted to higher scale. It is

EXAMINER
 District Court
 17.05.2013

100

held that the Departmental Selection and Promotion Committee of Lady Reading Hospital, Peshawar has failed to adhere the seniority list and had promoted the class-IV, employees illegally, without observing law/policy and seniority order for promotion.

6. For the reasons discussed above, the instant Writ Petition is allowed, decisions taken by the Departmental Selection and Promotion Committee of Lady Reading Hospital, Peshawar in meetings held on 4th and 17th May of 2013, regarding promotion of Class-IV, employees and promotion orders made in consequence thereof are declared null and void and are set aside. The respondents No.1 and 2 and other over helms of affairs are directed to reconstitute the Selection and Promotion Committee afresh, who shall made approval for promotion strictly in accordance with the seniority list.

The promotion would be deemed w.e.f 17.05.2013 and petitioner will be entitled for back benefits also from the said date. It is further directed that the judgment of this

ATTESTED
EXAMINER
PESHAWAR COURT
2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT

Service Appeal No: 1356/2012

Date of Institution: 11.12.2012

Date of decision: 05.12.2017



102
Amir T

Khurshid Ali Forester, Petrol Squad Division, Mingora Swat. (Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary Forest
Department Peshawar and others (Respondents)

MR. Ibad Ur Rehman Advocate

For appellant.

MR. Mian Amir Qadar
District Attorney

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD HAMID MUGHAL,

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned

counsel for the parties heard and record perused.

FACTS

The appellant had challenged the promotion of one Badrudin forester in a service appeal No: 776/Neem-2005 decided on 12.03.2012. The case of the appellant was that he was senior to said Badrudin and the promotion of Badrudin be set aside and instead the appellant be promoted. This Tribunal vide judgment dated 12.03.2012 accepted the appeal by declaring the order of promotion of said Badrudin illegal and directed the appellate authority to decide the departmental appeal of the appellant within reasonable time but not later than

ATTESTED

BY CHAIRMAN
Niaz Muhammad Khan
Khyber Pakhtunkhwa
Service Tribunal



two months of the receipt of that judgment. The Department instead of promoting the appellant on the promotion of said Badrudin and deciding the appeal of the appellant promoted said Badrudin on 24.04.2012 and promoted the appellant to a different post of Badrudin on 16.07.2012 with immediate effect. The appellant being aggrieved from the word "immediate effect" filed departmental appeal on 15.08.2012 which was not responded to and thereafter he filed the present writ appeal on 13.12.2012.

ARGUMENTS

Learned counsel for the appellant argued that this Tribunal in the judgment dated 12.03.2012 clearly set aside the promotion of said Badrudin (the respondent No. 5) and had directed the appellate authority to decide the departmental appeal of the appellant on merits. That the department instead of promoting the respondent No. 5 and promoting the appellant in her place adopted a novel way of transferring the said Badrudin out of the cadre and promoting the appellant. Learned counsel for the appellant argued that in such situation when the Tribunal had accepted the appeal of the appellant and directed the department to decide the appeal of the appellant regarding his seniority question Badrudin the department was duty bound to have acted accordingly within the stipulated time. But the department promoted the appellant which means that there was no impediment in the way of appellant for promotion. He next relied upon certain judgments of the superior courts in order to argue that in cases where a candidate where a candidate is deferred or not considered for promotion but is not to be considered for promotion along with back benches. In this regard

ATTESTED

Secretary, Peshawar

10/12/2012

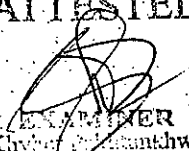
he relied upon certain judgments reported as 1997 PLC CS 1210, 2000 PLC CS 1324, 1985 SCMR 1158 amongst others.

4. On the other hand the learned District Attorney argued that the appellant was promoted as per the direction of this Tribunal and that he could not be given antedated promotion on the basis of promotion policy of the Provincial Government. In this regard he relied upon a notification dated 31.03.1990.

CONCLUSION

5. The judgment of this Tribunal dated 12.03.2012 had vividly and categorically set aside the promotion of said Badrudin. At that time the issue was in between appellant and said Badrudin who was made party to the said appeal. In the said judgment the respondents were clearly directed to decide the departmental appeal within a period of two (02) months regarding the seniority of appellant and Badrudin. But the department by evading the issue of seniority transferred Badrudin out of the cadre in order to save him and then promoted the appellant on 6.07.2012. The conduct on the part of the department speaks a lot by not demoting the said Badrudin. The decision of the department dated 24.04.2012 shows disregard for the order of this Tribunal. The department had saved Badrudin from demotion by interpreting justice in their own way. In such situation when no impediment was pointed out in the way of promotion of the appellant in decision dated 24.04.2012 then no fault lay with the appellant for not being promoted from 19.04.2006 when said Badrudin was promoted. The appellant did make said Badrudin as party in the said case as he was aggrieved only from Badrudin and which was decided in his favor. Now the position is that the appellant should have been placed in the position of Badrudin as no other deficiency or lacuna or any

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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impediment has been shown by the department not to promote the appellant. Judgments relied upon by the learned counsel for the appellant speak about such situation and in such cases the courts have granted antedated promotion to the aggrieved civil servant.

6. Coming to the notification referred to above by the learned District Attorney the same is not applicable to the case of the appellant. That notification is applicable only when promotions are being made as a routine under the promotion policy. This notification does not cover the case of those persons who are left out of the promotion despite their entitlement and when the courts restore their entitlements. Otherwise, too, the restoration of entitlement should be from the date when the aggrieved person was denied his entitlement.

7. As a consequent to the above discussion this appeal is accepted and the appellant is treated as promoted from 19.04.2006 along with back benefits. Parties are left to bear their own costs. File be consigned to the record room.

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(Muhammad Hamid Mughal)
Member

(Handwritten signature)
(Niaz Muhammad Khan)
Chairman
Camp Court, Swat

ANNOUNCED
06.12.2017

Certified true copy
Khyber Pakhtunkhwa
Services Tribunal,
Peshawar

Date of Presentation	06-12-17
Secretary	1650
Joint Secretary	10
Joint Secretary	10
Joint Secretary	10
Joint Secretary	13-12-17
Joint Secretary	13-12-17

2200

OFFICE OF THE DIRECTOR SECONDARY EDUCATION, N.W.F.P, PESHAWAR

PROMOTION.

ANNEXURE-4
106

Consequent upon their approval by the Departmental Promotion Committee of Education Department NWFP, in its meeting held on 11-5-2000, the following Junior Clerks already working on their own pay & BPS against the vacant post of Senior Clerks are hereby promoted on regular basis to the post of Senior Clerks in BPS-07 and posted against the post of Senior Clerks as noted against each in the interest of public service with effect from the date as noted against each:-

S.No.	Name & Designation.	Promoted & posted as	Remarks
1.	Mr. Abdul Wajid J/Clerk	Senior Clerk at G.D.C. No.2(M) D.I.Khan.	Post already occupied by him. He is allowed proforma promotion as S/Clerk with effect from 31-5-1994.
2.	Mr. Mahmood Khan J/Clerk	Senior Clerk at Director Bureau of Curr:Dev:& Edu:Extn: services Abbottabad.	Post already occupied by him. He is allowed proforma promotion as S/Clerk with effect from 25-5-1995.

- Note:-
1. Charge report should be submitted to all concerned.
 2. Necessary entry to the effect should be made in his Service Book.

(MAJID KHAN)
DEPUTY DIRECTOR (SECONDARY)
DIRECTORATE OF SECONDARY EDUCATION
NWFP PESHAWAR

Encl: 7 174/85 /A-23/MS/Promotion from J/C to S/C. Dated 31/5/2000.

Copy forwarded to the:-

1. Director of Education (Colleges) NWFP Peshawar.
2. Director Bureau of Curr:Dev:& Edu:Extn: Services Abbottabad.
- 3-4. Dy: Accounts Officers Abbottabad & D.I.Khan.
5. Section Officer (Directives) Education Deptt: NWFP, Peshawar.
6. Principal GDC No.2(M) D.I.Khan.
- 7-8. Officials concerned.
9. F.L. to Director Secy: Edu: NWFP, Peshawar.
10. F/File.
11. M/File.

MAJID KHAN
DEPUTY DIRECTOR SECONDARY
EDUCATION NWFP PESHAWAR

31/5

Readable Copy

108

Directorate of Elementary & Secondary Education N.W.F.P, Peshawar.

PROMOTION.

Consequent upon their approval by the Departmental Promotion Committee of Education Department in its meeting held on 12.11.1996, the following Junior Clerk already working on their own pay & BPS against the vacant post of Senior Clerks are hereby promoted on regular basis to the post of Senior Clerks in BPS-07 and posted against the post of Senior Clerks as noted against each in the interest of public service with effect from the date as noted against each:-

S.No.	Name & Designation	Promoted & posted as	Remarks
1.	Mohammad Hanif J/Clerk	S/Clerk DEO (M) Secy: Karak	Against v.post. He is allowed proforma promotion w.e.f 7.02.1993
2	Hazrat Ali S/Clerk	S/Clerk at GGHS No. 1 Mardan	Against v.post. He is allowed proforma promotion S/C w.e.f 25.05.1995
3.	S. Nizakat Ali Shah J/Clerk	S/Clerk at GG Comp: Higher Secy: School Peshawar	-do-
4.	Asghar Ali J/Clerk	S/Clerk at DEO (F) Pry: Swat	- do-
5.	Shoukat Hussain J/Clerk	S/Clerk at GPGC Abbottabad	-do-
6.	Inayatullah J/Clerk	S/Clerk at DEO (F/P) D.I.Khan	Against v.post. He is allowed proforma promotion s/Clerk w.e.f 10.01.1996
7.	Kala Khan J/Clerk	S/Clerk at DEO (M/P) Abbottabad	-do-
8.	Barkat Ali J/Clerk	S/Clerk at GC Timargara	-do-
9.	Sher Shah J/Clerk	S/Clerk at GGHS Shaidu Nowshera	-do-
10	Mati-ul-Haq J/Clerk	S/Clerk at D.E (FATA) NWFP Peshawar	-do-
11.	Mohammad Jamal	S/Clerk at D.S.E NWFP Peshawar	Against the post occupied by him

- Note:-
1. Charge reports should be sent to all concerned.
 2. Necessary entry to the effect should be made in their Service Book.

sd/aa
(GHULAM SARWAR)
DEPUTY DIRECTOR SECONDARY
N.W.F.P PESHAWAR.

Endst: No: 3461-580 /A-23/J/C/Promotion Dated Peshawar the 27/11/1996.

Copy forwarded for information and necessary action to the:-

1. Accountant General N.W.F.P Peshawar.
2. Divisional Director of Education (Schools concerned).
3. District Education Officer (Male/Female) Secondary concerned.
4. Principal Govt Collages (M/F) concerned.
5. District Education Officer (M/P) Pry: concerned.
6. Principal GHSS (Male / Female) concerned.
7. District Accounts Officer concerned.
8. Sub Divisional Education Officer (M/F) concerned.
9. Cashier local Directorate.
10. Officials concerned.
11. Personal file.
12. Master File.

sd/aa
Deputy Director Secy:
For / Director Secy: Education
N.W.F.P Peshawar

((M.I.K.))

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.
Mr. Justice Ch. Ijaz Ahmed
Mr. Justice Khilji Arif Hussain.

CIVIL PETITIONS NO.35-P TO 51-P & CP.301-P OF 2007

(On appeal from the judgments/order dated
15.08.2006 & 08.12.2006 passed by NWFP
Service Tribunal, Peshawar in Appeals No.
724, 893-899, 918-920, 1004-1006, 1049,
1050/2002, 388/2003 & 675/2006)

Director of Schools & Literacy,
NWFP, Peshawar and others

Petitioners.
(in all cases)

Versus

Ghulam Rasool

Respondent.
(in CP.35-P/2007)

Ladino Ballesh

Respondent.
(in CP.36-P/2007)

Muhammad Ahmad Nashad

Respondent.
(in CP.37-P/2007)

Fazal Rehman

Respondent.
(in CP.38-P/2007)

Jamshed Khan

Respondent.
(in CP.39-P/2007)

Muhammad Khan

Respondent.
(in CP.40-P/2007)

Said Habib

Respondent.
(in CP.41-P/2007)

Abdul Walrab

Respondent.
(in CP.42-P/2007)

Muhammad Suleman

Respondent.
(in CP.43-P/2007)

Sajid Khan

Respondent.
(in CP.44-P/2007)

Ghulam Nabi Malik

Respondent.
(in CP.45-P/2007)

Mudana Sarwar

Respondent.
(in CP.46-P/2007)

ATTESTED

[Signature]
Officer in Charge
Supreme Court of Pakistan
Peshawar

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ANNEXURE
109

1. Mr. Ali Respondent. (in CP.47-P/2007)

2. Mr. Hussain Gohar Respondent. (in CP.48-P/2007)

3. Mr. Qayyum Respondent. (in CP.49-P/2007)

4. Mr. Jamheer Respondent. (in CP.50-P/2007)

5. Mr. Sadeer Khan Respondent. (in CP.51-P/2007)

6. Mr. Muhammad Younis Alqadri Respondent. (in CP.301-P/2007)

For the petitioners, in all cases: Mr. Qaiser Rasheed, Addl: AG.

For the respondents, in all cases: Mr. Imtiaz Ali, ASC. Mr. Tasleem Hussain, AOR.

Date of hearing: 05.03.2010.

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 110

Attested.
 [Signature]

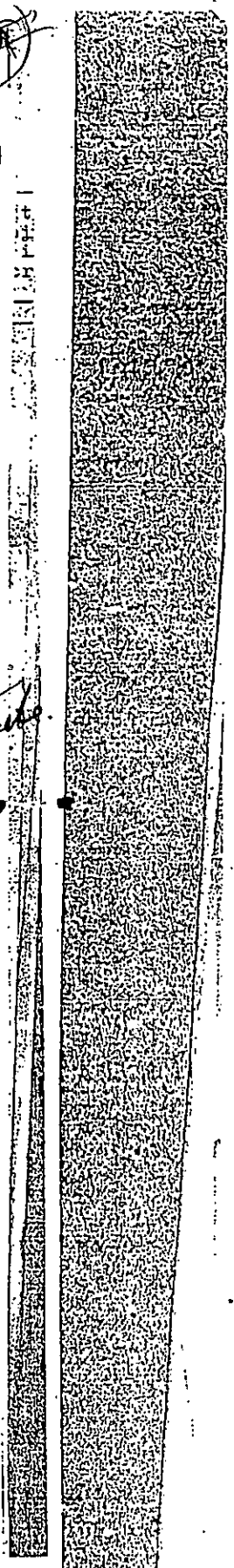
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Brief facts of the case, relevant for disposal of instant petitions are that the Secretary, Finance Department, Government of NWFP (petitioner No.1) vide notification dated 30th October 1993 allowed selection grade BPS-17 to Administrative Officer/Accounts Officer/Assistant Account Officer at the ratio of 33% of their total strength along with the Superintendent on the joint seniority list. In order to extend the said benefits to various officer in BPS-16, Director Schools and Literacy, Education Department, NWFP Peshawar (petitioner No.2) issued a notification dated 29th August 1994, wherein various categories of officers in BS-16 were brought at par by amending the Service

ATTESTED

[Signature]
 Court of Pakistan
 Peshawar



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... however, selection grade was only allowed to Superintendents BS-16
... 30.10.1993 while other categories of officers in BS-16 were left.
... Order No.2, subsequently issued order dated 7th May 2002, under which the
... (A), Budget Officer, Audit Officer, Account Officer in BS-16 of the
... Department were granted selection grade BS-17 but the respondents
... granted such grade w.e.f 19th July 1999 instead of 30th October 1993.
... aggrieved, the respondents challenged the said order before the NWFP
... Service Tribunal, who by means of impugned judgments granted them selection
... grade BS-17 w.e.f 30th October 1993. As such instant petitions for leave to
... appeal have been filed.

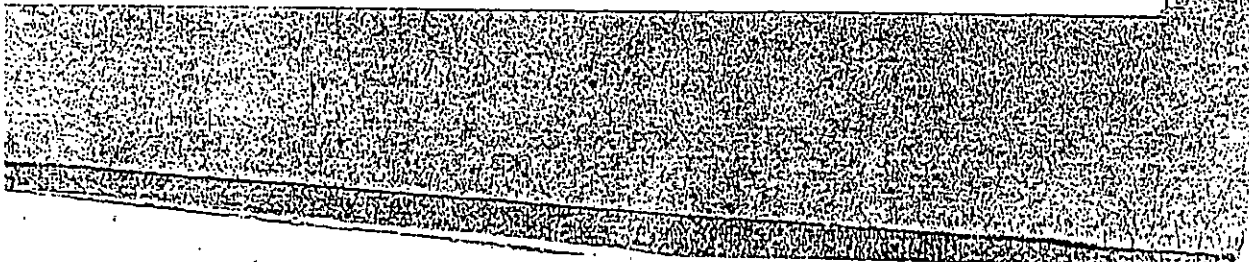
Learned Additional Advocate General NWFP stated that the
respondents were entitled for selection grade BS-17, subject to certain
conditions, laid down in the letter dated 30th October 1993, including the
provisions in the respective Recruitment and Appointment Rules. As
according to him these Rules were amended on 6th February 1997 and joint
seniority list was also prepared in the meantime, therefore, they have been
entitled for selection grade w.e.f 17th June 1999 but the Service Tribunal
granted them selection grade w.e.f 30th October 1993, therefore, according to
him impugned judgments are not sustainable.

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Learned counsel appearing for the caveat, however, opposed the
petitions and stated that Service Tribunal had done nothing except
enforcing/implementing the policy of the Government mentioned in letter 30th

TESTED October 1993, on the basis of which respondents were entitled for selection
grade. As far as question of amending the respective Recruitment and
Appointment Rules and preparation of joint seniority list of officers in BS-1

concerned, it is the job of the petitioners, therefore, the respondents should
not be allowed to suffer at the hands of the department.



15.11.2007, etc.

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We have heard the learned counsel for the parties and have also carefully gone through the impugned judgment passed by the Service Tribunal. There is no doubt that on 30th October 1993, Government issued a policy letter, laying down a criterion for granting selection grade BS-17 to grade BS-16 to the extent of 33% but the respondents were not allowed the benefit of the same for one or the reason and ultimately they have to approach Service Tribunal. A careful perusal of the impugned judgment indicates that the Tribunal has not passed an order beyond the scope of policy letter dated 30th October 1993. As far as the discretion of the Government to amend the Recruitment and Appointment Rules is concerned, it was the duty of the Government to prepare and issue the joint seniority list of the Administrative officers and the Superintends and make the amendments, without any delay, after issuance of the letter. Service Tribunal in fact has enforced the policy letter dated 30th October 1993.

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It is pertinent to mention here that the department cannot be allowed to sleep for any indefinite period to amend the rules and to prepare seniority list at the cost of the respondents, who are government employees and they are always anxious about their promotion or to get benefit of the service as early as could be possible. Unfortunately, in instant case, after issuance of the policy letter dated 30th October 1993 rules were amended in 1997 but perhaps the seniority list was prepared later on and on account of such slackness, the respondents had suffered a lot and ultimately in 2001 they were given selection grade and in the meantime, some of them stood retired. We are, therefore, of the opinion that under these circumstances the Service Tribunal has rightly granted relief to the respondents and judgments passed by it, being unexceptionable, should not be disturbed. We do not intend to interfere by this Court.

TESTED

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It is informed by the learned counsel appearing for the appellants that since of about more than 16/17 years, the judgments of

1997, 1998, 2007, etc.

Service Tribunal, passed in favour of the respondents, have not been implemented. In such state of affairs, we direct the concerned authority to implement the same within a period of four weeks and send a compliance report to the Registrar of this Court, for our perusal in Chambers. Learned Additional Advocate General is directed to communicate these directions to the concerned authorities to ensure its compliance in letter and spirit.

Thus, for the foregoing reasons, petitions are dismissed and leave declined.



Peshawar,
05.03.2010.

Sd/- Iqbal Khan Muhammad, Chambers
Sd/- Ch. Ijaz Ahmed, J
Sd/- Khilji Arif Hussain, J

11
Certificate to
Supreme Court of Pakistan
Peshawar

NOT APPROVED FOR REPORTING.

C.A. No.	757-P/2010
Date of filing	25-3-2010
Application	18/00
No. of Writs	15
No. of Petitions	5
Requisition Fee	9.30
Copying Fee	14.30
Court Fee	30-3-2010
Date of	31/3/10
Date of	07/03/10
Comptroller	6000
Receipt	6000
Total	14.30
Advance	6/2
Balance	8.30

Approved
Advocate

F
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GOVERNMENT OF PAKISTAN
ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA
PAYROLL SYSTEM

PAYMENT ADVICE

P Sec: 008 Month: August 2015
PR5207 Directorate of Elementary
DIRECTORATE OF ELEMENTARY

NTN:
OFF #: EDU029408
GIC #:

DEPTT CODE

Serial: 00100000
Name: IMAZ ULLAH
Assistant Director
Chief Ad: 141032498245

BPS Interest Applied

ALLOWANCES	AMOUNT
Basic Pay	51,780.00
Personal Pay (Basic Grade)	7,775.00
House Rent Allowance 45%	4,432.00
Medical Allowance 10%	5,000.00
Adhoc Allowance 10100 20%	4,450.00
Adhoc Relief All-2013	11,950.00
Adhoc Relief All-2014	5,900.00
Adhoc Relief All-2015	4,400.00
Graves Pay and Allowance	5,950.00
TOTAL ALLOWANCES	102,887.00
DEDUCTIONS:	
IT Payable 47,000.00 Deducted 15,163.00	TAX: (3600) 5,224.00
CFT Balance 150,137.00	Subsidy: 2,240.00
4507-BPF Loan Principal Instal 2,475.00	1.00
3501-Benevolent Fund	250.00
4511-Addi Group Insurance	23.00
4504-Group Insurance	330.00
Total Deductions:	7,970.00
NET AMOUNT PAYABLE	94,917.00

Personal pay instead of increment on teaching ceiling of BS-17, as at that time move over to next scale was stopped, so personal pay as annual increment was in practice.

QUALIFYING SERVICE YRS MON	0 0 0 13 11 1905 12 Days	LFP Quota: NATIONAL BANK OF PAKHARDAN MATH BREN PL30000005045803
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BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR

Appeal No. 612/2008

Date of Institution. .. 16.04.2008
Date of Decision .. 13.03.2009

Muhammad Iqbal Khattak,
Assistant Political Agent, Khar Bajaur Agency. ... (Appellant)

VERSUS

1. Government of NWFP through Secretary Establishment Department, Peshawar.
2. Govt. of NWFP through Chief Secretary, Peshawar. (Respondents)

APPEAL U/S 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO.SOE.II (E&D) 2 (192)2007 DATED 19.2.2008 WHEREBY THE APPELLANT WAS PROMOTED ON REGULAR BASIS W.E.F, 19.2.2008 INSTEAD OF 30.11.1999 AND ORDER NO.SOE-II (E&D) 2(192) WHEREBY HIS DEPARTMENTAL APPEAL WAS DISMISSED.

MR. SHAKEEL AHMAD,
Advocate ... For appellant.

MR. ZAHID KARIM KHALIL,
Addl. Government Pleader, ... For respondents.

MR. JUSTICE (R) SALIM KHAN, ... CHAIRMAN.
MR. BISMILLAH SHAH, ... MEMBER.

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN. The present appeal No 612 of 2008 by Muhammad Iqbal Khattak and appeal No. 613 of 2009 by Ahmad Khan Involved similar questions of law, therefore, these are taken together for arguments and disposal.

2. Muhammad Iqbal Khattak was promoted as Tehsildar on regular basis vide order dated 28.12.1988. He was promoted to PCS(E.G) (BPS-17) on temporary basis vide notification dated 06.03.1996. He contended that many posts became vacant, but the appellant was promoted to (BPS-17) on regular basis on 19.2.2008 with immediate effect, instead of ante-dating his promotion to the date on which the vacancy fell to his turn in the

ATTENDED
EXAMINER
N.W.F.P. SERVICE TRIBUNAL
PESHAWAR

Witnessed

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Amir

(10) (11) (12)

seniority lists of officers of PCS (E.G). His departmental appeal was rejected on 22.03.2008. The present appeal was filed on 16.4.2008 which is within time. The case of Ahmad Khan (Appellant) is similar to the case of Muhammad Iqbal Khattak on facts also. His appeal is also within time. (115)

3. The respondents contested the appeal on many grounds, including the ground that no one could claim a vested right in promotion or in the terms and conditions for promotion to a higher post.

4. We heard the arguments and perused the record.

5. The learned counsel for the appellants contended that the appellants were temporarily posted to BPS-17 post on 06.3.1996, but they remained silent, because they did not have a vested right for promotion to a higher post. The appellants have already been considered for promotion and have been found eligible and fit for regular promotion to BPS-17 post, therefore, the principles embodied in the judgment of the August Supreme Court of Pakistan reported as 1990 SCMR 1321 are not applicable to their cases. In fact, the vacancies had become available for the appellants as early as on 30.11.1999, and it was the responsibility of the official respondents to expeditiously deal with the cases of the appellants for their regular promotion. The appellants could not be punished for no fault on their side, or for delay caused by the official respondents in processing the cases of the appellants. He relied on 1997 PLC (C.S) 77, wherein it has been held in para 3 as under:-

"On behalf of the Government it is contended that no civil servant has a right to claim that he should be promoted from a back date even though a vacancy may be existing on the date from which the promotion is being claimed. This is no doubt true but there are no orders by the Government that the respondents/petitioners should be held up for some time. The delay in making the promotions occurred entirely due to the reason that the officials of the Education Department could not carry out a fairly simple exercise within a reasonable period. In the circumstances it will not be appropriate for this Civil Petition to interfere with the order of the Service Tribunal. Leave is refused."

This judgment was in the petition for leave to appeal against the judgment dated 19.02.1995 of the Punjab Service Tribunal. It is worth-mentioning that

(11)

the judgments cited as 1990 SCMR 1321 and cited as 1997 PLC (C.S) 77 are on two different aspects of the same subject.

important

Ante-dating of promotion, after consideration of the candidate aspiring for such promotion, after he was found eligible and fit for such promotion and is promoted, is an established principle of law. Such a candidate cannot be punished for any delay caused by the department in processing his case for promotion. The order of promotion, therefore, has to be ante-dated to the date on which the vacancy for his turn became available or to the date on which he actually took charge of the post on officiating/acting charge basis, whichever is later.

post

The A.G.P contended that the present appeals were miserably time-barred and both the appellants were stopped by their own conduct to file the present appeals. In fact, the principle embodied in the judgment reported as 1990 SCMR 1321 was applicable to the cases of the appellants from 06.3.1996 to 18.2.2008. They could not claim promotion as of right. The principle embodied in the judgment reported as 1997 PLC (C.S) 77 became applicable to their case on 19.2.2008. Cause of action arose to the appellants for claiming ante-dating of their promotion as prayed for only when their cases were considered for promotion, they were found eligible and fit for promotion, and their promotion orders were issued, though with immediate effect. They filed their departmental appeals within time from the date of the impugned order dated 19.2.2008, and their appeals were rejected on 22.3.2008. They filed Service Appeals on 16.04.2008. The departmental appeals as well as the Service Appeals were well within time.

CC

The A.G.P further contended that, according to the proviso contained in sub-section (2) of Section 22 of the N.W.F.P Civil Servants Act 1973, "no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade." Judgment cited as 1990 SCMR 1321 was, then, applicable and appellants could not file representation. This stage has already passed.

The appellants have been considered for holding the higher post after their promotion to that higher post, and their fitness for such promotion and holding of post has already been determined. The judgment cited as 1997

PLC (C.S) 77 has become applicable after determination of fitness of the appellants. The question in these cases is not the determination of fitness but is the right of ante-dation of their promotion. The appellants had vested right for consideration of promotion on their turn, whenever it was, and, when found fit on determination of fitness, at any stage, they had a right to claim ante-dation of their promotion to the dates on which the vacancies were available for their respective turns or from the date on which they actually took the charge of their respective posts, whichever were later in time.

9. The A.G.P also contended that according to sub-rule (6) of Rule 9 of the N.W.F.P Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 "acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis." The appellants have never claimed any vested right for regular promotion to the post which they held on acting charge basis, on the basis of acting charge appointment. In fact, they did not have such a right. They remained silent for a long time, knowing that they did not have such a right on the basis of acting charge appointment. They, however, had a vested right, as civil servants, for consideration for promotion, when the authority was to consider someone for promotion against the vacancy. No other person could be considered till the appellants were so considered. They, therefore, had a vested right for ante-dation of their promotion only when they were regularly promoted, but from the date when the vacancy became available for their turn.

10. The A.G.P further contended that, according to the North West Frontier Province, Provincial Management Service Rules, 2007, notified on 11.05.2007 vide No. SOE.II(ED)2(14)2007, The NWFP Provincial Civil Service (Secretarial/Executive Group) Rules, 1997 were repealed. He was of the view that the N.W.F.P Provincial Management Service Rules, 2007 had come into force at once w.e.f. 11.05.2007, while the orders of promotion of the appellants were issued on 19.02.2008. He submitted that the promotion orders were covered by the new rules, therefore, the appellants could not claim any benefit out of the already repealed rules of 1997. In order to clarify this controversy, it is necessary to reproduce the relevant Rule 8 of the N.W.F.P Provincial Management Service Rules, 2007 which is as under:-

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[Signature]

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8. Repeal:- The North-West Frontier Province Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 shall stand repealed after the retirement of existing incumbents of both the cadres. Separate seniority list of both the cadres shall be maintained under the existing rules and they shall be promoted at the ratio of 50:50. The existing incumbents of PCS (E.G) and (S.G) in different pay scales, for the purpose of their promotion, shall continue to be governed under the said service rules till the retirement of the last such incumbent."

The above rule, by itself, clarifies that the rules of 1997 shall not stand repealed before the retirement of the existing incumbents of both the cadres of Secretariat/Executive Groups, and shall remain in force till the retirement of the last such incumbent. It further clarified that separate seniority list of both the cadres shall be maintained under the existing rules. The existing rules for such incumbents are the N.W.F.P Provincial Civil Service (Secretariat/Executive Group) Rules, 1997. It was also clarified that such incumbents shall be promoted at the ratio of 50:50. It means that out of each two vacancies, one vacancy shall be given to Secretariat Group, while another vacancy shall be given to the Executive Group. Further clarification is to the effect that the existing incumbents of PCS (E.G) and (S.G) in different pay scales shall continue to be governed under the rules of 1997 for the purpose of their promotion, and this process is to continue till the retirement of last such incumbent. Both the appellants belonged to the Executive Group of Civil Servants. They were to be governed under the N.W.F.P. Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 before 11.05.2007, and they have to be governed under the above mentioned rules of 1997 till the retirement of the last incumbent of a post in Secretariat Group/Executive Group.

11. The cases of the appellants are, therefore, to be governed in accordance with the provisions of Section 8 (quoted above) of the new N.W.F.P. Provincial Management Service Rules, 2007. The record shows that vacancies were available for the appellants but they were not promoted at the due time and their cases for promotion were delayed unnecessarily without any fault of the appellants. They, therefore, are entitled to ante-dation of their promotion, against the first available vacancy falling to the turn of each of them or from the date of taking over the charge of that vacancy on officiating/acting charge basis, whichever is later.

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NWFP SECRETARIAT

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12. In the light of the above, we accept both the appeals, and direct the official respondents to ante-date the promotion of each of the two appellants to the respective dates on which a vacancy became available for the respective turn of the appellants or from the respective dates of their taking charge of such vacancy on officiating/acting charge basis, whichever is later. The appellants are entitled to the costs of their respective litigation from the official respondents.

ANNOUNCED
11.03.2009

By Justice (S) Jatin Kumar
Chowdhury
Sd/- Biswanath Chakrabarti
Member




11.03.2009
11.03.2009
11.03.2009
11.03.2009

Impudent


Number of presentations of	13-4-09
number of marks	13-4-09
Copying fee	19
Urgent	12
Date	16
Time of copy	13-4-09
Date of completion of copy	13-4-09
Date of delivery of copy	13-4-09

IMPUDENT

11.03.09

قیمت 50 روپے	70479			
ایڈریس: _____		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر: 2623-09-05				
رابطہ نمبر: 0311941818				

بعدالت جناب: حسین پختونخوا مسٹر وکیلز ٹرسٹ مشینل سٹاپور

مخاطب: <u>حسین والد صاحب ایڈووکیٹ</u>	دعویٰ: <u>Serviced Appeal</u>
	علت نمبر: _____
	مورخہ: _____
	جرم: _____
	تھانہ: _____

باعث تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی کی وجوہ دی گئی کارروائی متعلقہ _____ کے لیے _____ کے لیے _____ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جو اب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقام: _____
 PESHAWAR BAR ASSOCIATION
 KHYBER PAKHTUNKHWA
 واہ شہ

العبد _____
 العبد _____
 مقام: _____

 Adv.

نوٹ: اس وکالت نامہ کی کوئی کاپی ناقابل قبول ہوگی۔