

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Misc: Application No. _____/2022

IN

Service Appeal No. 184 /2018

Sheraz Ahmad.....Applicant/Appellant

Versus

The Govt. of KPK and others.....Respondents

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Applicant/Appellant

Through


Khaled Raftan
Advocate
Supreme Court of Pakistan

4-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Off: 091-2592458
Cell # 0345-9337312

Dated: 26 /10/2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Misc: Application No. _____ /2022

IN

Service Appeal No. 184 /2018

Sheraz Ahmad.....Applicant/Appellant

Versus

The Govt. of KPK and others.....Respondents

Application on behalf of appellant for placing on record essential documents having bearing upon the case.

Respectfully Sheweth,

1. That the titled Service Appeal is pending before the Hon'ble Tribunal fixed for today i.e. 08.11.2022.
2. That the attached documents are essential to be placed on record having bearing upon the case.

It is therefore humbly prayed that on acceptance of this application, the attached documents may graciously be allowed to place on record.

Through

Applicant/Appellant

Khaled Rahman,
Advocate,
Supreme Court of Pakistan

Dated: 26 /10/2022

Verification

Verified that the contents of the applicant are true and correct to the best of my knowledge and nothing has been concealed from this Hon'ble Tribunal.

6
Deponent

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

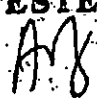
PRESENT

MR. JUSTICE HAMID ALI MIRZA
MR. JUSTICE NASIR-UL-MULK

2005
CIVIL APPEALS NO. 44 TO 79 OF 2004 AND
CIVIL PETITIONS NO. 1409/2004 & 319/2005
(On appeal from the judgment of the N.W.F.P. Service Tribunal,
Peshawar, dated 7.2.2004 passed in Service Appeals No. 926, 939
to 979, 989, 1037 to 1039, 1048 to 1050, 1067 to 1071, 1085,
1170 of 2003 and 60 of 2004.

| | |
|---------------------|---------------------------------|
| Zafarullah Khan | Appellants (in C.A.No.44/05) |
| Attiqur Rehman | (in C.A.No.45/05) |
| Khalid Saeed | (in C.A.No.46/05) |
| Muhammad Zahoor | (in C.A.No.47/05) |
| Fakhr-uz-Zaman Khan | (in C.A.No.48/05) |
| Muhammad Fahim | (in C.A.No.49/05) |
| Shad Mohammad | (in C.A.No.50/05) |
| Raza Ullah Khan | (in C.A.No.51/05) |
| Muhammad Iqbal Khan | (in C.A.No.52/05) |
| Shereaz Ahmed | (in C.A.No.53/05) |
| Abdur Rashid | (in C.A.No.54/05) |
| Arshad Zia | (in C.A.No.55/05) |
| Fazlullah | (in C.A.No.56/05) |
| Muhammad Raees Khan | (in C.A.No.57/05) |
| Muhammad Ilyas | (in C.A.No.58/05) |
| Aziz-ur-Rehman | (in C.A.No.59/05) |
| Muhammad Sadiq | (in C.A.No.60/05) |
| Asghar Hussain | (in C.A.No.61/05) |
| Salim Javed | (in C.A.No.62/05) |
| Anun Gul | (in C.A.No.63/05) |
| Dilawar Khan | (in C.A.No.64/05) |
| Munawar Ahmed | (in C.A.No.65/05) |
| Schwanosh | (in C.A.No.66/05) |
| Muhammad Nazif | (in C.A.No.67/05) |
| Ghulam Akbar | (in C.A.No.68/05) |

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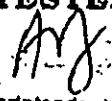

Superintendent
Supreme Court of Pakistan

| | |
|--|---|
| Aman Ullah Khan | (in C.A.No.69/05) |
| Abdali Shah | (in C.A.No.70/05) |
| Intizar Muhammad | (in C.A.No.71/05) |
| Muhammad Khan | (in C.A.No.72/05) |
| Arif Qayyum | (in C.A.No.73/05) |
| Abdul Hameed | (in C.A.No.74/05) |
| Naseem Ullah | (in C.A.No.75/05) |
| Muhammad Ismail | (in C.A.No.76/05) |
| Fazal-ur-Rehman | (in C.A.No.77/05) |
| Malik Irfan | (in C.A.No.78/05) |
| Iqbal Ahmed | (in C.A.No.79/05) |
| Pervez Khan | Petitioner (in C.P.No.1409/04) |
| Sarfraz Khan | (in C.P.No.319/05) |
| Government of N.W.F.P. and others For the Appellants: (in C.A.Nos.44 to 56/05) | Versus Respondents Mr. Muhammad Akram Sheikh, Sr. A.S.C. Mr. Muhammad Ahmed Zaidi, A.O.R. |
| For the Appellants: (in C.A.Nos.57 to 79/05 & C.P.1409/04) | Mr. Abdul Rehman Siddiqui, A.S.C. Ch. Muhammad Akram, A.O.R. |
| For the Petitioner (in C.P.No.319/05) | Mr. Muhammad Aslam Una, A.S.C. Mr. Arshad Ali Ch. A.O.R. |
| For the Respondents (in all cases) | Mr. Muhammad Basa Khan, Addl.A.G. N.W.F.P. |
| Date of hearing: | 25 th August 2005 |

JUDGMENT

NASIR-UL-MULK, J. By this single judgment, it is proposed to dispose of Civil Appeals No.44 to 79 of 2005 and Civil Petitions No.1409 of 2004 and 319 of 2005. In the civil appeals, leave to appeal was granted to consider inter-alia "whether by virtue of N.W.F.P. Employees On Contract Basis (Regularization of Services) Act, 1989 (Act No. VIII of 1989) as amended by N.W.F.P. Act No. II of 1990, the petitioners were to be treated as regularly appointed civil servants notwithstanding that their original initial appointment was on contract basis."

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Supreme Court of Pakistan
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2. The facts of all these matters, except civil appeal No.46 of 2005, filed by Khalid Saeed, are materially similar. In these similar appeals/petitions, the appellants/petitioners had applied in the year 1986 for the various posts, advertised for appointments on ad-hoc basis by the Government of N.W.F.P., Local Government, Elections and Rural Development Department, Peshawar (hereinafter referred to as the Department), published in the National Dailies of 30.10.1987. The total numbers of posts advertised were 136. The appellants, upon the recommendation of the Selection Board, constituted for the purpose, were appointed in November 1988 on the posts for which they were selected. As a specimen it will be worthwhile to reproduce the letter of appointment of one of the appellants, namely Zafarullah Khan, appellant in civil appeal No.44 of 2005:-

"GOVERNMENT OF N.W.F.P.
LOCAL GOVERNMENT, ELECTIONS AND RURAL
DEVELOPMENT DEPARTMENT

NO.DS.1/LCB/1-5/88
Dated Peshawar 22nd Nov.1988.

To

Mr. Zafarullah Khan s/o
Gul Faraz Khan, c/o Abdul Sattar, Office Supdt. FIA,
Mall Road Peshawar Cantt.

Subject: APPOINTMENT ON CONTRACT BASIS.

Further to our letter of even number dated 2-11-88, and the agreement signed by you on 13th November, 1988 the Provincial Government are pleased to appoint you as Planning Officer (Karak), on contract basis on the terms and conditions contained in the said agreement (copy enclosed) for the period commencing from the date of assumption of charge until 30.6.1989 or earlier as the case may be.

On appointment you are posted in the office of Asstt. Director LG & RDD (Karak). And advised to report for duty to him on or before 28.11.1988. No TA/DA will be admissible to you for the journey on this account.

(SARWAR KHAN)
DEPUTY SECRETARY-I(LCB)."

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AS
Superintendent
Supreme Court of Pakistan,
ISLAMABAD.

The letters of appointment of the other appellants were similarly worded. It may be noted that though the posts were advertised to be filled on ad-hoc basis, the appointments were made on contract basis. The case of the appellants is that the nature of employment was changed on account of ban imposed on recruitment on ad-hoc basis by the N.W.F.P. Civil Servants (Regularization of Services) Act, 1988.

3. The appellant in civil appeal No.46 of 2005 was appointed on 12.3.1990 as Planning Officer in BPS-17 under the Scheme "Strengthening of Local Government and Rural Development" purely on the contract basis. The terms and the date of employment of this appellant makes his case distinguishable from the rest of the appellants.

4. All the appellants were serving the Department when in the year 1996 the Accountant General, N.W.F.P. stopped payment of their salaries, impelling them to file Constitutional Petitions (Writ Petition No.1084 of 1996 etc.) where in they prayed that they be declared to be duly regularized civil servants in the light of provisions of the N.W.F.P. Employees on Contract Basis (Regularization of Service) Act 1989 (Act VIII of 1989) as amended by the Act No.II of 1990. The writ petition was dismissed on 4.3.2003. During the pendency of the petitions, the appellants remained in service on account of the interim orders passed in their favour by the High Court. The appellants being aggrieved of the decision of the High Court filed constitutional petitions for leave to appeal before this Court. During the pendency of the petitions the appellants' services were terminated in the light of judgment of the High Court. In view of this development, this Court was of the opinion that the appellants had to assail the orders of termination of their services before the Service Tribunal. A direction was given to the Service Tribunal that in case appeals were filed by the appellants, the same be disposed of expeditiously. While disposing of the petitions in the above terms, this Court directed the Government of N.W.F.P. to pay the appellants their outstanding salaries if not paid so far.

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Supreme Court of Pakistan
ISLAMABAD

5. The appellants thereafter filed their respective appeals before the Service Tribunal. All the appeals, except one filed by Tahira Yasmeen, were dismissed. That case was held to be distinguishable for the employee had been appointed on temporary and not on contract basis. The reasons for dismissal of the appeals have been stated in para 10 of the impugned judgment, dated 7.2.2004, which reads as under:-

"10. A look at the record would show that appointments of the appellants were made purely on contract basis initially for a period of six months. Agreement deeds were also executed between the employers and employees. The prayer of the appellants for their regularization was not acceded to by the respondent department. It is evident that status of the appellants ever since their initial appointments till the termination of their services remained as contract employees. Since the appellants were contract employees, therefore, they are not civil servants within the meaning of section 2(b) of the NWFP Civil Servants Act, 1973. Therefore, this Tribunal lacks jurisdiction in the matter in hand. Accordingly, the instant appeal as well as the connected appeals mentioned above, except Appeal No.926/03 figures at S.No.1 at page-2 of the judgment, fail and are dismissed, with no order as to costs."

6. The Service Tribunal thus declined to exercise jurisdiction on the ground that the appellants being contract employees were not civil servants and thus could not file appeals before the Service Tribunal. These findings run contrary to the order of this Court dated 10.6.2003 passed in C.P.No.185-P of 2003 wherein it was expressly stated that the appellants may file appeals before the N.W.F.P. Service Tribunal against their orders of termination and direction was also given to the Service Tribunal for the expeditious disposal of the appeals, if filed. The Service Tribunal, on account of above findings, did not attend to the merits of the appeals before it.

7. The case of the appellants throughout has been that they were to be appointed on ad-hoc basis as advertised but on account of the ban imposed on

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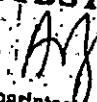
such employment by the Act of 1988, they were appointed on contract basis. That in any case their services as civil servants stood regularized by Act VIII of 1989 as amended by Act II of 1990. That throughout their service they had been treated as civil servants and were given all benefits of such service.

8. Mr. Muhammad Akram Sheikh, Sr. A.S.C. elaborating the case of the appellants submitted that the appellants had served the Department continuously for 15/16 years and though their initial period of contract had expired, they remained in employment without further extension of the contractual service. That all along, the appellants had been treated as civil servants, probably on account of Act VIII of 1989, and thus the non-issuance of any formal order/notification regularising the appellants' service under the said statutory provisions would be a lapse of the Department. Countering the claim of the Department that the appellants belonged to a project/scheme of the Department and were not appointed to regular posts in the Department, the learned Sr. A.S.C. submitted that neither the advertisement advertising the posts nor the appellants' orders of appointment had referred to employment in any scheme/project. For his submissions, the learned counsel cited "Ahmed Khan v Secretary to Government (1997 SCMR 1477) and Government of N.W.F.P. v Rukhsar Ali (2005 SCMR 22)."

9. Mr. Abdul Rehman Siddiqui and Mr. Muhammad Aslam Uns, learned ASC who appeared for some of the appellants adopted the arguments advanced by Mr. Muhammad Akram Sheikh, Sr. A.S.C.

10. Before referring to the contentions of Mr. Muhammad Essa Khan, learned Additional Advocate General, N.W.F.P. representing the Department, it would be appropriate to state the statutory provisions relevant for determination of the main questions raised before us. As already mentioned the posts in question were advertised on 30.10.1987 to be filled on ad-hoc basis. Section 5 of N.W.F.P. Civil

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Servants (Regularization of Service) Act 1988, enacted on 23.1.1988, is reproduced as follows:-

"5. Ban on recruitment on ad hoc basis:- (1) Notwithstanding anything contained in any law or rule there shall be no recruitments by way of ad hoc appointments for a period of ten years from the date of commencement of this Act.

(2) The Government may fill in short term or temporary vacancies by way of contractual appointment in such manner and on such terms and conditions as may be prescribed for a period not exceeding two years during which period the selectees of the Public Service Commission against the vacancies, to fill in the posts, shall be made available by the Public Service Commission."

11. The above act was enacted after the advertisement but before the appellants' appointments. It would thus appear that it was on account of this intervening event of ban on ad-hoc appointments by the above statutory provision that the appellants' appointments were made on contractual basis, notwithstanding that according to the advertisement the appointments were to be made on ad-hoc basis. However, on 13.11.1989, N.W.F.P. Act No. VIII of 1989 was enacted for the purpose of regularizing the services of contractual employees. The relevant provisions, embodied in Sections 3 and 4 of the Act as under:-

"3. Special provision regarding employees on contract basis:- Notwithstanding any thing contained in sub-section (1) of section 2 of the North West Frontier Province Civil Servants Act, 1973 (N.W.F.P. Act No. XVIII of 1973), any candidate appointed on contract basis in any Government Department against any post on contract basis under section 5 of the North West Frontier Province Civil Servants (Regularization of Services) Act, 1988 (N.W.F.P. Act No. 1 of 1988)

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Supreme Court of Pakistan
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1988) till the commencing day of this Act shall be always be deemed to have been so appointed.

4.(1) Notwithstanding anything contained in any law for the time being enforce, any Civil Servant, who is, or has been appointed or deemed to have been appointed against any post in any Government Department under section 3 of this Act shall be deemed to have been regularly appointed from the date of his continuous officiation, subject to eligibility, according to the service rules applicable to the post, verified by the Administrative Secretary of the department concerned;

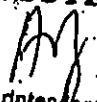
Provided that if any Civil Servant is aggrieved regarding his eligibility, he shall have ons right of appeal to the Chief Secretary, Government of North West Frontier Province, and his decision I the case shall be final:

Provided further that if there is any gap in service of any Civil Servant between this enactment and the date of appointment under section 3 of this Act, due to termination of contractual services only the same shall be deemed to have been condoned as extraordinary leave without pay.

(2) The inter se seniority of the civil servants under this Act shall be determined by the Government, according to service rules in vogue.

12. Section 4 reproduced above was substituted by an amending Act (N.W.F.P. Act No. II of 1990). The substituted provisions did not bring much material change in the original section and to a greater extent was a reproduction of the substituted provision. Under Section 3 of Act VIII of 1989 a candidate appointed on contract basis against any post under Section 5 of the Act I of 1988 was deemed to have been appointed on ad hoc basis from the date of his appointment. By virtue of Section 4 such person, who is deemed to have been appointed under Section 3 on ad hoc basis, shall be considered to have been regularly appointed from the date of his continuous employment. This however has been made subject to verification of eligibility of the candidate for the post by the Administrative Secretary of the Department. The appellants, as stated above, had been appointed on contract basis under Section 5 of Act I of 1988 as

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

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Supreme Court of Pakistan
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10 (4)

they could not have been appointed on ad-hoc basis on account of the ban imposed by the Act. Thus, their employment was to be considered as appointment of civil servant on ad hoc basis under Section 3 of Act VIII of 1989 and consequently were deemed to have been regularly appointed by virtue of Section 4 of the Act. Act VIII of 1989 did not envisage the issuance of any notification for regularization of employees falling within the scope of Sections 3 and 4. Such employees became civil servants by operation of law. The only condition was verification of eligibility of the employees by the Administrative Secretary. It is not the case of the Department that appellants were not eligible for the posts to which they were appointed. Even if the formal exercise of verification was to be carried out, the same was to be undertaken by the Secretary and obviously the appellants cannot be made to suffer for non-performance of a statutory responsibility imposed on the head of the Department.


13. In view of the above clear statutory provisions favouring the appellants, the learned Additional Advocate General, N.W.F.P. laid stress upon the Department's stand that the appellants were employed for a project and were never appointed to any regular post in the Department. Elaborating the point he submitted that the Department had started a scheme called "Strengthening of Local Government and Rural Development Department" for which PC-I was approved and it was for the running of the scheme that the appellants were employed. That the appellants were to be paid from the developmental funds and not from the Provincial Exchequer. The learned Additional Advocate General maintained that with the restructuring of the Department in the process of devolution of powers, the office of the Director General, Local Government and Rural Development and all its offices and schemes were abolished and thus the services of the appellants, who were contractual employees for a scheme, had to be terminated.

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Supreme Court of Pakistan
ISLAMABAD

14. The position taken by the learned Additional Advocate General, regarding the appellants' nature of employment, does not find support from the relevant documents. By the advertisement of 30.10.1987 the Department invited applications for filling up certain posts in the Rural Development of the Government of N.W.F.P. There was no mention of the posts being related to any project or scheme. The letters of appointment, one of which has been reproduced above, also does not make such a reference. These two are the relevant documents for the purpose of determining as to whether the appellants were appointed for a project or in the Department. As neither the advertisement nor the letters of appointments, both issued by the Local Government and Rural Development Department of the Government of N.W.F.P., state that employment is for any particular project or scheme, the same is deemed to have been made in the Department. Additionally, the appellants, who had served the Department for 15 years, had been treated as regular employees of the Department and not as employees of a project. Circumstances indicative of this treatment have been highlighted by the Service Tribunal in the impugned judgment and have not been controverted by the Department, either before the Tribunal or before us. The appellants had been granted revised basic pay scales like all other civil servants in the years 1991 and 1994 along with annual increments. They were given the benefit of the scheme of basic pay, allowances and pension enhanced by the Provincial Government in the year 2001 for the provincial civil servants. The appellants were regular subscribers to the G.P. Fund and the Benevolent Fund, and it is stated that on transfer of one of the appellants to Peshawar, the G.P. Fund was also transferred to the office of Accountant General, N.W.F.P. Peshawar. These are normal incidence of service of civil servants and not of employment in a project. The source of funds for paying the salaries to the appellants or the contents of any P.C.1 is a matter of internal administration of the Provincial Government. The nature of the appellants' employment is to be decided on the basis of the letters of

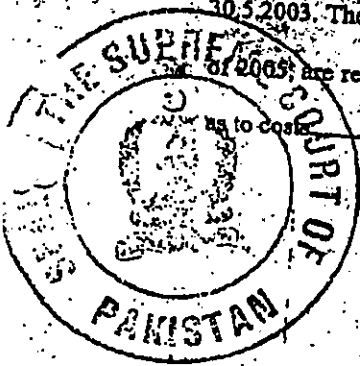
ATTESTED


 Superintendent
 Supreme Court of Pakistan
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appointment and the manner in which their employments have been considered thereafter. The foregoing discussion shows that the appellants were employees of the Department and not of any Scheme or Project and by virtue of the provisions of Act VIII of 1989, as amended, had become regular civil servants.

15. The case of Khalid Saeed, appellant in Civil Appeal No.46 of 2005, however, stands on a different footing. He was appointed on 12.3.1990 after the enactment of Act VIII of 1989 and Act II of 1990, the latter is dated 25.2.1990, though it has been enforced retrospectively w. e. f. 13.11.1989. The two Acts had regularized the services of those employees who were employed on contract basis till coming into force of the Acts on 13.11.1989. Obviously, Khalid Saeed cannot claim benefit of these Acts.

16. In view of the above, Civil Appeal No.46 of 2005 is dismissed whereas Civil Appeals No.44, 45, 47 to 79 of 2005 are allowed. Civil Petition Nos. 1409 of 2004 and 319 of 2005 are converted into appeals and allowed. Resultantly, the impugned judgment and order of the N.W.F.P. Service Tribunal to that extent are set aside and so also the order of termination of the said appellants dated 30.5.2003. The appellants, except Khalid Saeed, appellant in Civil Appeal No.46 of 2005, are reinstated in service with all back benefits. There shall be no order as to costs.



Sd/- Hamid Ali Mirza
Sd/- Nur-ud-Din Malik
Certified to be true copy

Superintendent
Supreme Court of Pakistan
#B ISLAMABAD

Islamabad
August 25, 2005
Shirazi

13/9/2005

4424/05 Civil/Criminal

Date of Presentation: 25-8-05

NOT APPROVED FOR REPORTING

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GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT.
REGULATION WING

Attn: AD, LG (Sr.)

121-

Dated: 05.12.2017

NOTIFICATION

No.SO(Policy)/E&AD/1-16/2017. The Competent Authority is pleased to direct that in the "Khyber Pakhtunkhwa Promotion Policy, 2009" circulated vide this department letter No.SOE-III(E&AD)1-3/2008 dated 28.1.2009, the following amendments shall be made, namely:-

AMENDMENTS

1. The following words (in italic form) shall be added after the word and dot "PER," appearing in the 3rd line of sub-para (a) of para IV:
"The requirement of earning one calendar year report will start from the date the officer joins back and the training period will also be included for completion of the requirement of such PER."
2. After sub-para (h) of para IV the following sub-para (I) shall be inserted:
"the mere fact that the seniority is sub-judiced will not debar the competent forum to make recommendation. However, in such cases following shall be applicable:
 - (i) All promotion based on sub-judice seniority will be conditional i.e. subject to final outcome of Court cases.
 - (ii) An officer who gets his seniority restored and becomes senior to already promoted officers in the cadre will be considered for promotion by the relevant board from the date when his junior got promoted.
 - (iii) In case, the officer expires or retires from service and subsequently, his seniority is restored his case will be considered for proforma promotion alongwith all financial benefits.
 - (iv) Juniors promoted on sub-judice seniority list will be assigned seniority as per final Court Orders and will be reverted in case there is no vacancy".
3. Para II (b) shall be substituted as follow:
"(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing promotion policy. However, for promotion against technical posts in BS-20, which require managerial and administrative skills, the SMC shall be mandatory."

-122-

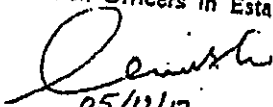
4. The clause (i) of sub-para (a) of para V shall be deleted and the next below clause (ii) and (iii) shall be re-numbered as (i) and (ii). In sub-para (b) of Para V the word three shall be substituted with the word "two".

Sd/-
Secretary to Government of Khyber Pakhtunkhwa
Establishment Department

ENDST: NO & EVEN DATE

Copy is forwarded to:-

1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department.
2. Additional Chief Secretary (FATA), FATA Secretariat Peshawar.
3. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
4. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
10. All Deputy Commissioners in Khyber Pakhtunkhwa and Political Agents in FATA.
11. The Registrar Peshawar High Court, Peshawar.
12. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
13. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
14. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.


05/12/17
(BEENISH IQBAL)
SECTION OFFICER (POLICY)

- 15 - *Amended*

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GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
LOCAL GOVERNMENT, ELECTIONS AND RURAL
DEVELOPMENT
DEPARTMENT.

NOTIFICATION

Peshawar, dated the 14th April, 1998. ✓

No. SO(LG-I)2-188/93-Vol-II: In exercise of the powers conferred by sub-rule (2) of rule 3 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Local Government and Rural Development Department, in consultation with the Services and General Administration Department and the Finance Department, hereby directs that in this Department Notification No. JG(RWP)7(2)/73, dated 26.1.1978, the following further amendments shall be made namely:

AMENDMENTS.

In the Appendix, -

(a) for the existing entries at serial No. 1, the following shall respectively be substituted, namely.

| 1. | 2. | 3. | 4. | 5. | 6. |
|-----|--|----|----|----|---|
| "1. | Director/ Chief Planning Officer. | - | - | - | i) Seventy five percent by promotion, on the basis of seniority-cum-fitness from amongst Assistant Directors/Planning Officers with five years service as such; and ii) twenty five per cent by transfer." |

(b) for the existing entries at serial No. 2, the following shall respectively be substituted, namely:

| 1 | 2 | 3. | 4. | 5. | 6. |
|-----|--|--|----|----------------------|--|
| "2. | Assistant Director/ Planning Officer. | Master degree or equivalent qualification from a recognised University. | - | 21 to 30 years | i) Fifty percent by initial recruitment; and ii) fifty percent by promotion, on the basis of seniority-cum-fitness from amongst |

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the Progress Officers with three years service as such."

(c) for the existing entries in column 6 against serial No. 6, the following shall be substituted, namely:

" By promotion, on the basis of seniority-cum-fitness, from amongst Assistants/Accountants and Senior Scale Stenographers with five years services as such."

Note.-

A joint seniority list of Assistants/Accountants and Senior Scale Stenographers shall be maintained, on the basis of their regular continuous appointments to the respective posts, for the purpose of promotion; provided that if the date of regular appointments is the same, the Assistant/Accounts shall rank senior to Senior Scale Stenographers."

d) for the existing entries in columns 3, 5 and 6 against serial No. 7, the following shall respectively be substituted, namely:

| 3. | 5. | 6. |
|--|----------------|--|
| "Bachelor Degree or equivalent qualification from recognised University. | 21 to 25 years | i) Seventy Five per cent by promotion, on the basis of seniority-cum fitness, from amongst the Senior Auditors and Senior Clerks with three years service as such; and ii) twenty five per cent by initial recruitment. |

Note.-

A joint seniority list of Senior auditors and Senior Clerks shall be maintained, on the basis of their regular continuous appointment to the respective posts, for the purpose of promotion; provided that if the date of regular appointment is the same the Senior Auditors shall rank senior to Senior Clerk."

(e) for the existing entries in columns 3, 5 and 6 against serial No. 9, the following shall respectively be substituted, namely:

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| 3. | 5. | 6. |
|---|-----------------|---|
| *Bachelor Degree in Engineering or equivalent qualification in the relevant field from recognised University. | 22/ to 30 years | i) Seventy per cent by initial recruitment; ii) ten per cent by promotion on the basis of seniority cum-fitness, from amongst Sub-Engineer who possess Bachelor Degree in Engineering or equivalent qualification from a recognised University; and iii) twenty per cent by promotion, on the basis of seniority-cum-fitness, from amongst diploma holder Sub-Engineers having ten years service as such and have passed the prescribed departmental examination."; and |

(f) for the existing entries in columns 3, 5 and 6 against serial No. 10, the following shall respectively be substituted, namely:

| 3. | 4. | 5. | 6. |
|---|----|----------------|--|
| *Bachelor Degree from recognised University | - | 21 to 25 years | (i) Seventy five per cent by promotion, on the basis of seniority-cum-fitness, from amongst Village Secretaries with five year service as such; and (ii) twenty-five per cent by initial recruitment."; and |

(g) for the existing entries in columns 6 against serial No. 11, the following shall respectively be substituted, namely:

"By promotion, on the basis of seniority-cum-fitness, from amongst Junior Clerks with two years service as such."

Secretary to Government of
 North-West Frontier Province,
 Local Government, Elections and Rural
 Development Department.

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Endst: No. SO(LG-I)2-188/89 Dated. the 14th April 1998.

Copy of the above is forwarded to:

1. All Administrative Secretaries to Government of NWFP.
2. All Divisional Commissioners in NWFP.
3. Secretary to Governor, NWFP, Peshawar.
4. Secretary, NWFP, Public Service Commission, Peshawar.
5. Director General, LG&RDD, NWFP, Peshawar.
6. All Heads of Attached Departments in NWFP.
7. Secretary Local Council Board, NWFP, Peshawar.
8. Secretary Provincial Election Authority, Peshawar.
9. All Divisional Directors, LG&RDD in NWFP.
10. All Deputy Commissioners in NWFP.
11. All District & Session Judges in NWFP.
12. Registrar, Peshawar High Court Peshawar.
13. All Assistant Directors, LG&RDD in Peshawar.
14. Section Officer (Legis.), Govt: of NWFP, Law Deptt:
15. Section Officer (Urdu Cell) Govt: of NWFP, S&GAD with reference to his letter No. SOUC(S&GAD)6-22/90/Vol-III, dated 24-2-1998.
16. Manager Govt: Printing Press, Peshawar for publication in the next Government Gazette Notification, 40 copies of the Notification may be sent to this Department.


(ARBAB WAHEED ALAM)
Section Officer-I.

HM/AQ.


16/4/98

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Amendⁿ Dⁿ 13

WORKING PAPER

SUBJECT:- PROMOTION OF PROGRESS OFFICERS (BPS-16) TO THE POST OF ASSISTANT DIRECTORS/PLANNING OFFICERS (BPS-17) IN LOCAL GOVERNMENT AND RURAL DEVELOPMENT DEPARTMENT

There are 36 sanctioned posts of Assistant Directors (BPS-17) in Local Government and Rural Development Department out of which 18 posts falls to the share of initial recruitment quota and 18 posts to the share of promotion quota. The details of promotees viz-a-viz initially recruited Assistant Director are given in Annexure-I.

2. According to column No.6 of the Service Rules of the Local Government and Rural Development Department appended to this Department Notification No.DG(RWP)7(2)/73, dated 26-01-1978 and further amended vide No.SO(LG-I)2-188/93/Vol-II, dated 14-04-1998, the following method of recruitment has been prescribed for the post of Assistant Director/Planning Officer(BPS-17) in Local Government and Rural Development Department (Annexure-II):-

- (i) Fifty percent by initial recruitment; and
- (ii) Fifty percent by promotion, on the basis of seniority-cum-fitness from amongst the Progress Officers with three years service as such.

3. There are eleven (11) posts of Assistant Director/Planning Officer (BPS-17) falling under the promotion quota have fallen vacant in the Local Government and Rural Development Department due to revival of Directorate General, LG&RDD and creation of posts in the settled districts with effect from 01-01-2012 (Annexure-III).

4. It is pointed out that promotion cases of the following Progress Officers to the posts of Assistant Directors (BPS-17) were placed before the Departmental Promotion Committee Meeting held on 18-07-2012:-

1. Shad Muhammad
2. Sheraz Ahmad
3. Abdul Rashid
4. Fazlullah
5. Shibli Khan
6. Salim Raza
7. Asadullah

5. The Committee recommended Shad Muhammad, Abdul Rashid, Salim Raza and Asadullah for promotion to the post of Assistant Director (BPS-17) while promotion cases of the remaining three Progress Officers i.e. Sheraz Ahmad, Fazlullah and Shibli Khan were deferred due to non-availability of their ACRs/PFRs as is evident from Para 3 of the minutes of DPC (Annexure-IV).

8. Promotion case of Sheraz Ahmad, Fazlullah and Shibli Khan, Progress Officers (HPS-16) to the posts of Assistant Director (BPS-17), LG&RDD was again placed before the Departmental Promotion Committee for consideration. The Departmental Promotion Committee in its meeting held on 16-01-2013 considered promotion of the incumbents and was deferred again due to non-availability of ACRS/PERs for the whole service (Annexure-V).

7. It may be mentioned that the following Progress Officers (BPS-16) have also requested for promotion to the post of Assistant Directors (BPS-17) in LG&RDD on acting charge basis as the posts are lying vacant under promotion quota but they could not be promoted on regular basis due to non-completion of length of service i.e. 3 years as Progress Officers:-

1. Mr. Muhammad Haroon
2. Mr. Muhammad Naeem
3. Mr. Mosam Khan
4. Mr. Muhammad Ajeem
5. Mr. Dilawar Khan
6. Mr. Mira Jan
7. Mr. Abid Zaman
8. Mr. Faizullah Khan
9. Mr. Abdul Hussain
10. Mr. Habib Nawaz
- 11.

8. In this respect Rule-9 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 is re-produced below:-

"Rule-9.- Appointment on Acting Charge or current Charge Basis.(1) Where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service the authority may appoint him to that post on acting charge basis; Provided that no such appointment shall be made, if the prescribed length of service is short by more than three years."

9. According to the seniority list of Progress Officers (BPS-16), the following are the senior most Progress Officers who are due for promotion to the posts of Assistant Director (BPS-17) vide Annexure-VI:-

| Sl. No. | Name | Qualification | Date of regular appt/promotion as Progress Officer | Whether completed 3 years service | Whether eligible for promotion |
|---------|--------------------|------------------------|--|-----------------------------------|--------------------------------|
| 1 | Sheraz Ahmad | M.A (P.Science) | 22-11-1988 | Yes | Yes |
| 2 | Fazlullah | M.A(Sociology) | -do- | Yes | Yes |
| 3 | Shibli Khan | M.Sc(Hons Agriculture) | -do- | Yes | Yes |
| 4 | Mr Muhammad Haroon | B.A | 30-05-1012 | No | On acting charge basis |

- 21

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| | | | | | |
|----|----------------|------|------------|----|------|
| 5 | Muhammad Naeem | B.A | 30-05-2012 | No | -do- |
| 6 | Masam Khan | M.A. | 30-05-2012 | No | -do- |
| 7 | Muhammad Azeem | B.A | 30-05-2012 | No | -do- |
| 8 | Dilawar Khan | M.A. | 30-05-2012 | No | -do- |
| 9 | Mira Jan | B.A | 30-05-2012 | No | -do- |
| 10 | Abid Zaman | B.A | 30-05-2012 | No | -do- |
| 11 | Faizullah | M.A | 30-05-2012 | No | -do- |
| 12 | Abdul Hussain | M.A | 30-05-2012 | No | -do- |
| 13 | Habib Nawaz | M.A | 30-05-2012 | No | -do- |

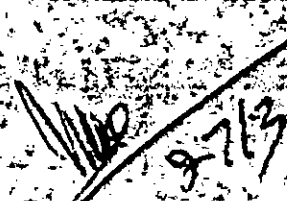
10. The officers mentioned at Sl.No.1 to 3 have now provided their ACRs/PERs through their respective offices due to which they were deferred in the earlier DPC meeting and requested for promotion to the post of Assistant Director (BPS-17). As regard ACRs for the year 2001 to March, 2012, the Deputy Secretary (Administration)/DDO, LG&RDD has given a certificate that these three Progress Officers were declared surplus and placed in the surplus pool with effect from 2001 and have drawn salary from the Surplus Pool of LG&RDD till March, 2012 (Annexure-VII).

11. It is certified that the officers included in the panel for promotion:-
- (a) Hold the lower posts on regular basis and none of them is holding the post on ad-hoc basis;
 - (b) No departmental/professional examination has been prescribed for them for the purpose of promotion;
 - (c) They are regular members of the service/cadre presently working in their respective service/cadre;
 - (d) The final seniority list of the Progress Officers (BPS-16) duly authenticated is undisputed;
 - (e) Neither disciplinary/departmental proceedings/anti-corruption case/judicial inquiry are pending against any of the officer recommended for regular promotion nor any penalty has been imposed on any one of them during the last five years.

12. Annual Confidential Reports/PERs and synopsis thereof in respect of the

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The Departmental Promotion Committee is requested to kindly determine suitability of promotion of officers at Sl.No.1 to 3 on regular basis to the posts of Assistant Director (BPS-17) while promotion of the remaining officers as mentioned in Para-9 above may kindly be determined on acting charge basis against the vacant post of Assistant Directors (BPS-17) under promotion quota with immediate effect as they have not completed the requisite length of service i.e. three years.


Deputy Secretary (Admin)
LG&RDD

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Amir ESK

**MINUTES OF DEPARTMENTAL PROMOTION COMMITTEE MEETING
LG&RDD HELD ON 18-07-2012 AT 1100 HOURS**

A meeting of the Departmental Promotion Committee was held on 18/07/2012 at 1100 hours under the Chairmanship of Secretary to Government of Khyber Pakhtunkhwa, Local Government, Elections and Rural Development Department.

The following attended:-

- | | | |
|----|--|-----------|
| 1. | Mr. Aurangzeb, Secretary, LG&RDD | Chairman |
| 2. | Mr. Rizwan Ullah Khan Abdali Section Officer (SR-II), Finance Department | Member |
| 3. | Miss Irum Naz Section Officer (R-IV), E&A Department | Member |
| 4. | Mr. Muhammad Ismail Qureshi, Deputy Secretary (Admin), LG&RDD | Secretary |

The Chairman welcomed the participants after which agenda containing promotion of the following Progress Officers (BPS-16) against the vacant posts of Assistant Directors (BPS-17) falling to the share of promotion quota was placed before the Departmental Promotion Committee for consideration:-

1. Mr. Shad Muhammad
2. Mr. Sheraz Ahmad
3. Mr. Abdul Rashid
4. Mr. Fazlullah
5. Mr. Shibli Khan
6. Mr. Saleem Raza
7. Mr. Asadullah

3. Working paper on the subject was circulated amongst Members of the Departmental Promotion Committee well before the meeting date. The Committee perused the Service Rules, record of the officials included in the panel, length of services, ACRs/PERs and certificates to the effect that no Departmental/Anti-Corruption cases were pending against them and made the following recommendations-

| Sl.No. | Name of official | Recommendations of the DPC |
|--------|-------------------|---|
| 1. | Mr. Shad Muhammad | Recommended for promotion to the post of Assistant Director (BPS-17) in LG&RDD with immediate effect. |
| 2. | Mr. Sheraz Ahmad | The Committee observed that PERs/ACRs are pre-requisite for promotion to the next higher |

| | | |
|----|------------------|---|
| | | grade and the incumbent was required to produce his PERs/ACRs for the period since 1988, but he did not arrange the same despite the fact that he was asked by the Department to provide PERs/ACRs. He refused in writing as is evident from the statement annexed-VI to the working paper while other similar officers have arranged the same. Hence the Committee unanimously decided to defer his case. |
| | Mr. Abdur Rashid | Recommended for promotion to the post of Assistant Director (BPS-17) in LG&RDD with immediate effect. |
| | Mr. Fazlullah | The Committee observed that PERs/ACRs are pre-requisite for promotion to the next higher grade and the incumbent was required to produce his PERs/ACRs for the period since 1988, but he did not arrange the same despite the fact that he was asked by the Department to provide his PERs/ACRS. He refused in writing as is evident from the statement annexed-VI to the working paper while other similar officers have arranged the same. Hence the Committee unanimously decided to defer his case. |
| 5. | Mr. Shibli Khan | -do- |
| 6. | Mr. Saleem Raza | Recommended for promotion to the post of Assistant Director (BPS-17) in LG&RDD with immediate effect. |
| 7. | Mr. Asadullah | -do- |

4. Meeting ended with a vote of thanks to and from the Chair.

Rizwan
 (Rizwan Ullah Khan Abadali)
 Section Officer (SR-II),
 Finance Department

IRUM NAZ
 (IRUM NAZ)
 Section Officer (R-IV)
 Estab: Department

AURANGZEB
 (AURANGZEB)

25 Annex 1

**GOVERNMENT OF KHYBER PAKHTUNKHWA,
LOCAL GOVERNMENT, ELECTIONS AND RURAL
DEVELOPMENT DEPARTMENT**

NOTE FOR CHIEF SECRETARY, KHYBER PAKHTUNKHWA

**PROMOTION OF PROGRESS OFFICERS (BPS-16) TO THE
POSTS OF ASSISTANT DIRECTORS (BPS-17) IN LG&RD
DEPARTMENT**

There are 36 sanctioned posts of Assistant Directors (BPS-17) in Local Government and Rural Development Department. According to the Service Rules, fifty percent posts are required to be filled-in by initial recruitment while fifty percent by promotion, on the basis of seniority-cum-fitness from amongst the Progress Officers with 10 years service as such. At this ratio, 18 posts fall to the share of direct recruitment and 18 posts to the share of promotion quota. At present thirteen (13) posts of Assistant Directors (BPS-17) falling under the promotion quota have fallen vacant in the Local Government and Rural Development Department due to revival of Directorate General, LG&RDD and creation of posts in the settled district with effect from 01/01/2012 (Annexure-A).

Cases of the following Progress Officers (BPS-16) were placed before the Departmental Promotion Committee for determining their suitability to the posts of Assistant Directors (BPS-17) in LG&RDD:-

- ✓ 1. Mr. Shad Muhammad
2. Mr. Sheraz Ahmad
- ✓ 3. Mr. Abdul Rashid
4. Mr. Fazlullah
5. Mr. Shibli Khan
- ✓ 6. Mr. Salim Raza
- ✓ 7. Mr. Asadullah

3. The Departmental Promotion Committee in its meeting held on 18/07/2012 considered promotion cases of the above incumbents and recommended Shad Muhammad, Abdul Rashid, Salim Raza and Asadullah suitable for promotion to the posts of Assistant Directors (BPS-17) in LG&RDD while cases of Sheraz Ahmad, Fazlullah and Shibli Khan were deferred due to non availability of their PERs/ACRs. A copy of minutes of the DPC dated 18-07-2012 is at Annexure-B.

4. The Chief Secretary, Khyber Pakhtunkhwa being appointing authority of officers BPS-17 under the Khyber Pakhtunkhwa Government Servants (Appointment, Promotion and Transfer) Rules, 1989, is requested to kindly approve recommendations of the Departmental Promotion Committee and promote Shad Muhammad, Abdul Rashid, Salim Raza and Asadullah, Progress Officers (BPS-16) to the posts of Assistant Director (BPS-17) in LG&RDD under promotion quota with immediate effect.

Subject:- PROMOTION OF PROGRESS OFFICERS (BPS-16) TO THE POSTS OF ASSISTANT DIRECTORS (BPS-17) IN LG&RD DEPARTMENT

- 5. A copy of working paper, original PERs/ACRs and Synopsis thereof in respect of above officers are placed at Annexure-C.
- 6. Case is submitted for approval of the Chief Secretary, Khyber Pakhtunkhwa please.

10/8/12
 10/8/12
 10/8/12

(AURANGZEB)
 Secretary, LG&RD

**SENIOR MINISTER FOR LG&RD,
 KHYBER PAKHTUNKHWA**

7. Para 4/n may please be approved!

Chief Secretary

(BASHIR AHMED BILGHO)
 H/ST.
 SENIOR MINISTER FOR
 LOCAL GOVERNMENT & RURAL DEV.
 KHYBER PAKHTUNKHWA



10/8/12
 10/8/12
 10/8/12

- 8. Please examine.

SECRETARY ESTABLISHMENT

Chief Secretary
CHIEF SECRETARY
 09.08.2012

ID No. 15605
 Date 10/8/12
 0-0 Reg-IV
 Sd/GAD, Diary No. 483
 Dated 10/8/12

10/8/12

The proposal of the administrative department regarding promotion of Progress Officer m(BS-16) to the posts of Assistant Director (BS-17) has been examined in the light of recommendations of the Departmental Promotion Committee (Annex-B) and found in order.

10. The Chief Secretary, Khyber Pakhtunkhwa, being appointing authority for posts in BS-17 under rule 4(1)(b) of the Khyber Pakhtunkhwa Civil Servants (APT) Rules, 1989 (Annex-D), may approve para-4.

(Shahrukh Arbab)
Secretary Establishment
August 17, 2012

Chief Secretary
Khyber Pakhtunkhwa.

11. Approved.

[Signature]
26.8.12
CHIEF SECRETARY

SECRETARY LOCAL GOVERNMENT

[Signature]
DS/CA
SO(E)

[Signature]
27/8
mnl
27/08/12
[Signature]
27/8/12

28 Amr G.H.

**GOVERNMENT OF KHYBER PAKHTUNKHWA,
LOCAL GOVERNMENT, ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT**

ORDER

Dated Peshawar the 27th August, 2012

No.SOL.G-112-236/Promotion/2012.- The Competent Authority in consultation with the Departmental Promotion Committee has been pleased to promote the following Progress Officers (BPS-16) LG&RDD to the posts of Assistant Director (BPS-17) in the Local Government and Rural Development Department with immediate effect:-

1. Mr.Shad Muhammad
2. Mr.Abdul Rashid
3. Mr.Salim Raza
4. Mr.Asadullah

2. On their promotion, the terms and conditions of their service on which they were initially appointed will remain the same.


**SECRETARY GOVT.OF KHYBER
PAKHTUNKHWA, LOCAL GOVT:
ELECTIONS & RURAL DEV:DEPTT:**

Encl. Even No. and Date.

Copy is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The AGPR Sub-Office, Peshawar.
3. The Director General, LG&RDD, Khyber Pakhtunkhwa, Peshawar.
4. The Director FATA, LG&RDD, Warsak Road, Peshawar.
5. All Assistant Directors, LG&RDD in FATA.
6. All District/Agency Accounts Officers in Khyber Pakhtunkhwa.
7. The Officers concerned.
8. The Manager Government Printing Press, Peshawar.
9. The PS to Secretary, LGE&RDD.
10. Personal Files of the officers concerned.
12. Office order file.


(SHAHID KHAN)
SECTION OFFICER (ESTAB)


30/8/12

29 Date H

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING
HELD ON 08-04-2013 AT 1100 HOURS.

A meeting of the Departmental Promotion Committee was held on 08/04/2013 at 1100 hours under the Chairmanship of Secretary to Government of Khyber Pakhtunkhwa, Local Government, Elections and Rural Development Department. The following attended:-

1. Mr. Aurangzeb
Secretary, LG&RDD Chairman
2. Mr. Atif-Ur-Rehman,
Director General, LG&RDD Member
3. Mr. Ghazi Khan,
Deputy Secretary, E&A Deptt: Member
4. Mr. Wazir Muhammad ^{Adm}
Section Officer (SR-II),
Finance Department Member
5. Mr. Muhammad Ismail Qureshi,
Deputy Secretary (Admin), LG&RDD Secretary

2. The Chairman welcomed the participants after which one item agenda containing promotion of the following Progress Officers (BPS-16) against the eleven (11) vacant posts of Assistant Directors (BPS-17), LG&RDD falling to the share of promotion quota was placed before the Departmental Promotion Committee for consideration:-

1. Mr. Sheraz Ahmad
2. Mr. Fazlullah
3. Mr. Shibli Khan
4. Mr. Muhamamd Haroon
5. Mr. Muhamamd Nacem
6. Mr. Mosam Khan
7. Mr. Muhammad Aleem
8. Mr. Dilawar Khan
9. Mr. Mira Jan
10. Mr. Abid Zaman
11. Mr. Faizullah Khan
12. Mr. Abdul Hussain
13. Mr. Habib Nawaz

3. Working paper on the subject was circulated amongst Members of the Departmental Promotion Committee well before the meeting date. It was pointed out in the meeting that cases of M/S Sheraz Ahmad, Fazlullah and Shibli Khan, Progress Officers as mentioned at Sl.No.1 to 3 above were deferred in the previous DPC meeting held on 16-01-2013 due to non-availability of their PERs/ACRs while cases of the

remaining Progress Officers (BPS-16) are for the promotion to the posts of Assistant Director (BPS-17) on acting charge basis. The meeting was informed that PERS/ACRs for the year 2012 in respect of above three Progress Officers are available. As regards ACRs for the year 2001 to March, 2012, the Deputy Secretary (Admin)/DDO, LG&RDD has given certificate that these three Progress Officers were declared surplus and placed in the surplus pool with effect from 2001 and have drawn salaries from the Surplus Pool of LG&RDD till March, 2012. This certificate has been annexed-VII to the working paper.

4. The Committee was informed that Progress Officers (BPS-16) mentioned at Sl.No.4 to 13 have been promoted to the post of Progress Officers (BPS-16) on 30-05-2012 and could not be promoted to the post of Assistant Director (BPS-17) lying vacant under promotion quota on regular basis due to non-completion of three years length of service as Progress Officers under the Service Rules. Therefore, cases of these Progress Officers (BPS-16) to the post of Assistant Directors (BPS-17) in LG&RDD could be considered on acting charge basis in light of Rule-9 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 is reproduced below:-

"Rule-9.- Appointment on Acting Charge or current Charge Basis.(1)
Where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service the authority may appoint him to that post on acting charge basis;
Provided that no such appointment shall be made, if the prescribed length of service is short by more than three years."

5. The representative of Establishment Department pointed out that under Rule-15 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, persons appointed to posts by initial recruitment, promotion or transfer shall be on probation for a period of one year. The Progress Officers mentioned at Sl.No.4 to 13 have been promoted on 30-05-2012 and would complete the probation period of one year on 30-05-2013 after which their promotion to the post of Assistant Directors (BPS-17) could be placed to the competent forum for consideration. Hence case of promotion of Progress Officers (BPS-16) from Sl.No.4 to 13 to the posts of Assistant Directors (BPS-17) on acting charge basis in LG&RDD was deferred by the Committee.

6. As regards cases of the Progress Officers mentioned at Sl.No.1 to 3, the Committee perused the Service Rules, record of these three incumbents, length of services, ACRs/PERS and certificates to the effect that no Departmental/Anti-Corruption cases were pending against them and made the following recommendation:-

...3....

| Sl.No. | Name of officer | Recommendations of DPC |
|--------|--------------------|---|
| 1 | Mr. Sheraz Ahmad | Recommended for promotion to the post of Assistant Director (BPS-17) in LG&RDD with immediate effect. |
| 2 | Mr. Fazlullah Khan | |
| 3 | Mr. Shibli Khan | |
| | | -do- |
| | | -do- |

7

Meeting ended with a vote of thanks to and from the Chair.

(Atif-Ur-Rehman)
Director General, LG&RDD

(Wazir Muhammad Afsar)
Section Officer (R-IV),
Finance Department

(Ghazi Khan)
Dy: Secy (Reg)
Establishment Department

(Muhammad Ismail Qureshi)
Dy: Secreary (Admin), LG&RDD

(AURANGZEB)
SECRETARY, LG&RDD



32
Date: 1/13

Government of Khyber Pakhtunkhwa
Local Government, Elections and Rural Development Department

NOTE FOR CHIEF SECRETARY, KHYBER PAKHTUNKHWA

SUBJECT:- PROMOTION OF PROGRESS OFFICERS (BS-16) TO THE POSTS OF ASSISTANT DIRECTORS (BS-17) IN LOCAL GOVERNMENT, ELECTIONS AND RURAL DEVELOPMENT DEPARTMENT

There are 36 sanctioned posts of Assistant Directors (BS-17) in Local Government, Elections and Rural Development Department. According to the method of recruitment of Assistant Director (BS-17), fifty percent posts are required to be filled-in by initial recruitment while fifty percent by promotion, on the basis of seniority-cum-fitness from amongst the Progress Officers with three years service as such (Annex-A). At this ratio, 18 posts fall to the share of direct recruitment quota and 18 posts to the share of promotion quota. At present, eleven posts of Assistant Directors (BS-17) falling under the promotion quota have fallen vacant due to revival of Directorate General, L.G.F&RDD and creation of posts in various districts with effect from 01/01/2012 (Annex-B).

2. The promotion case of the following officers, in line for promotion, was placed before the Departmental Promotion Committee (DPC) for determining their suitability for promotion to the posts of Assistant Directors (BS-17):-

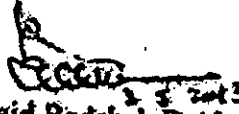
- 1) Mr. Sheraz Ahmad
- 2) Mr. Fazlullah
- 3) Mr. Shibli Khan
- 4) Mr. Muhammad Haroon
- 5) Mr. Muhammad Naeem
- 6) Mr. Mosam Khan
- 7) Mr. Muhammad Aleem
- 8) Mr. Dilawar Khan
- 9) Mr. Mira Jan
- 10) Mr. Abid Zaman
- 11) Mr. Faizullah Khan
- 12) Mr. Abdul Hussain
- 13) Mr. Habib Nawaz

3. The Departmental Promotion Committee considered the case in its meeting held on 08-04-2013 and has recommended promotion of M/S Sheraz Ahmad, Fazlullah and Shibli Khan, Progress Officers (BS-16) to the post of Assistant Directors (BS-17) on regular basis, while cases of the remaining officers were deferred as they have been promoted to the post of Progress Officers (BS-16) on 30-05-2012 and have not completed their probation period. A copy of minutes of the DPC meeting is at Annex-C while a copy of working paper, original PERs/ACRs and synopsis thereof in respect of above three officers are placed at Annex-D.

SUBJECT: PROMOTION OF PROGRESS OFFICERS (BS-16) TO THE POSTS OF ASSISTANT DIRECTORS (BS-17) IN LOCAL GOVERNMENT, ELECTIONS AND RURAL DEVELOPMENT DEPARTMENT

In terms of rule-4 (1) (b) of the Khyber Pakhtunkhwa Civil Servants Appointment, Promotion & Transfer) Rules, 1989, the Chief Secretary, Khyber Pakhtunkhwa is the appointing authority of officers in BS-17 (Annex-E).

The recommendations of the DPC reproduced in para 3 ante are submitted for approval of the Chief Secretary, Khyber Pakhtunkhwa/Appointing Authority, please.


(Syed Said Badshah Bukhari)
Secretary, L.G.E&RDD

~~Chief Secretary, Khyber Pakhtunkhwa~~

6. Please examine.


CHIEF SECRETARY
06.05.2013

SECRETARY ESTABLISHMENT

SO. S. S. TV
SAGAD, Diary No. 203
Date 5-5-13

- 34

The proposal contained in para 5 has been examined in the light of the recommendations of the Departmental Promotion Committee (Annex-C) and found in order.

The Chief Secretary, Khyber Pakhtunkhwa, being appointing authority for posts in BS-17 in attached departments (Annex-E) may approve the proposal.

[Signature]
(Shamukh Arbab)
Secretary Establishment
May 13, 2013

~~Chief Secretary, Khyber Pakhtunkhwa.~~

9 Para 5 approved.

[Signature]
CHIEF SECRETARY
14.05.2013

SECRETARY LOCAL GOVERNMENT

[Signature]
15.5.13

S/S/A.S.

13/5/13

Date - 14-5-13

(2/2/2013)
SECTION OFFICER (ESTAB)

21/05/13
21/05/13

(copy is forwarded:-
1 The Accountant General, Khyber Pakhtunkhwa, Peshawar
2 The Director General, LG&RDD, Khyber Pakhtunkhwa, Peshawar
3 The Director, FATA, LG&RDD, Warsak Road, Peshawar
4 The Assistant Directors, LG&RDD, Swabi, Buner, Mardan and Dir Lower
5 The District Accounts Officers, Swabi, Buner, Mardan and Dir Lower
6 The (Officers concerned)
7 The Manager Government Printing Press, Peshawar
8 The PS to Secretary, LG&RDD
9 The office order file

Dated Pesh: the 16th May, 2013

SECRETARY TO GOVT OF KHYBER
PAKHTUNKHWA, LG&RDD

| Sl.No. | Name officer | From | To |
|--------|------------------|--------------|---|
| 1 | Mr. Sheraz Ahmad | On promotion | Assistant Director, LG&RDD, Buner to relieve Mr. Ismail Khan of the additional charge |
| 2 | Mr. Fazlullah | On promotion | Assistant Director, LG&RDD, Mardan against a vacant post |
| 3 | Mr. Shabbir Khan | On promotion | Assistant Director, LG&RDD, Dir Lower against a vacant post |

Officers are hereby ordered with immediate effect.
Consequent upon their promotion, postings/transfers of the following
On their promotion, the officers will remain on probation, as per rules.
(In their promotion, the terms and conditions of their service on which they were initially appointed will remain the same.

- i) Mr. Sheraz Ahmad
- ii) Mr. Fazlullah
- iii) Mr. Shabbir Khan

Departmental Promotion Committee with immediate effect.
The post of Assistant Directors (BS-17) in the Local Government, Elections and Rural Development Department has been pleased to promote the following Progress Officers (BS-10) Local Government, Elections and Rural Development Department to Departmental Promotion Committee in consultation with the
Dated Peshawar, the 16th May, 2013

ORDER

Government of Khyber Pakhtunkhwa
Local Government, Elections and Rural Development Department



35

Handwritten signature and initials



36 Amir K²

GOVERNMENT OF KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS & RURAL DEVELOPMENT DEPARTMENT

NOTE FOR CHIEF SECRETARY, KHYBER PAKHTUNKHWA

Subject:- PROMOTION OF PROGRESS OFFICERS (BS-16) TO THE POST OF ASSISTANT DIRECTORS (BS-17) IN LOCAL GOVERNMENT, ELECTIONS AND RURAL DEVELOPMENT DEPARTMENT ON ACTING CHARGE BASIS

There are 36 sanctioned posts of Assistant Directors (BS-17) in Local Government, Elections and Rural Development Department. According to the service rules, the following method of recruitment has been prescribed for the post of Assistant Director (BS-17) in LG.E&RDD:-

- i. Fifty per cent by initial recruitment; and
- ii. Fifty per cent by promotion, on the basis of seniority-cum-fitness from amongst the Progress Officers with three years service as such.

2. Eight (8) posts of Assistant Directors (BS-17) falling under the promotion quota have fallen vacant in the Local Government, Elections and Rural Development Department meant for Progress Officers (BS-16). The promotion case of the following Progress Officers was placed before the Departmental Promotion Committee (DPC) for determining their suitability for promotion to the posts of Assistant Director (BS-17) or acting charge basis in pursuance of Rule-9 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 as the incumbents did not complete three years service as Progress Officers:-

- 1. Mr.Muhamamd Haroon
- 2. Mr.Muhamamd Naeem
- 3. Mr.Mosam Khan
- 4. Mr.Muhammad Aleem
- 5. Mr.Dilawar Khan
- 6. Mr.Mira Jan
- 7. Mr.Abid Zaman
- 8. Mr.Faizullah Khan
- 9. Mr.Abdul Hussain
- 10. Mr.Habib Nawaz

3. The Committee perused the Service Rules, record of the officials included in the panel, length of services, ACRs/PERs and certificates to the effect that no departmental/Anti-Corruption cases were pending against them made the following recommendations:

| S.No. | Name of official | Recommendation of DPC |
|-------|--------------------|--|
| 1 | Mr.Muhammad Haroon | Recommended for promotion to the post of AD(BS-17) on acting charge basis with immediate effect. |
| 2 | Muhammad Naeem | -do- |
| 3 | Mosam Khan | -do- |
| 4 | Muhammad Aleem | -do- |
| 5 | Dilawar Khan | -do- |

12/10/24
Date 22/10/24

| | | |
|---|----------------|------|
| 6 | Mira Jan | -do- |
| 7 | Abid Zaman | -do- |
| 8 | Faizullah Khan | -do- |

37

4. A copy of minutes of the DPC meeting held on 20-03-2014 is at Flag-A while copy of the working paper, original ACRs and synopsis thereof in respect of above officials are placed at Flag-B.

5. In terms of rule 4 (1) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the Chief Secretary, Khyber Pakhtunkhwa is the appointing authority of officers in BS-17 (Flag-C).

6. The recommendations of the Departmental Promotion Committee (DPC) re-produced in para-3 ante are submitted for approval of the Chief Secretary, Khyber Pakhtunkhwa / Appointing Authority, please.

Chief Secretary, Khyber Pakhtunkhwa

(Signature)
 (Hifz-Ur-Rahman) 27/3
 Secretary, L.G.E&RDD

7- H. examine.

Sery Petab.

(Signature)
 Chief Secretary
 Govt of Khyber Pakhtunkhwa


No. 1637
 Date: 28-3-2014

37/03/2014

38

8. The proposal contained in para-6 of appointment of 8 Progress Officers (BS-16) as Assistant Director (BS-17) on acting charge basis has been examined in the light of recommendation of the Departmental Promotion Committee (F/A) and found in order.

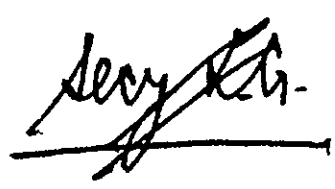
9. The Chief Secretary, Khyber Pakhtunkhwa, being appointing authority for posts in BS-17, under rule 4 (1) (b) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 (F/C), may approve the proposal.



(SIKANDER QAYYUM)
Secretary (Establishment)
April 02, 2014

CHIEF SECRETARY
KHYBER PAKHTUNKHWA


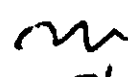

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Approved.




3/4
Chief Secretary
Govt. of Khyber Pakhtunkhwa

AS(DA)
+
AS/DA ✓
+


4/4

7/4

7/4



1-39 Annex "L" 23

GOVERNMENT OF KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS & RURAL DEVELOPMENT DEPARTMENT

NOTIFICATION

Dated Peshawar, the 8th April, 2014

No. SO(LG-D)2-336/Promotion/2012 The Competent Authority in consultation with the Departmental Promotion Committee has been pleased to promote the following Progress Officers (BS-16), LG,E&RDD to the posts of Assistant Director (BS-17) in Local Government, Elections and Rural Development Department on acting charge basis in terms of Rule-9 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 with immediate effect:-

1. Mr. Muhammad Haroon
2. Mr. Muhammad Naeem
3. Mr. Mosam Khan
4. Mr. Muhammad Aleem
5. Mr. Dilawar Khan Burki
6. Mr. Mira Jan
7. Mr. Abid Zaman
- ✓ 8. Mr. Fuizullah Khan

2. The above officers, on their promotion to the posts of Assistant Directors on acting charge basis, should continue to work on their respective place of postings.

SECRETARY TO GOVT. OF KHYBER
PAKHTUNKHWA, LG,E&RDD

Endst No. SO(LG-D)2-336/Promotion/2012 Dated Peshawar the 8th April, 2014

Copy is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The AGPR S&B-Office, Peshawar.
3. The Director General, LG,E&RDD, Khyber Pakhtunkhwa, Peshawar.
4. The Director, FATA, LG&RDD, Warsak Road, Peshawar.
5. All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa.
6. All District/Agency Accounts Officers in Khyber Pakhtunkhwa.
7. The Officers concerned.
8. The Manager Government Printing Press, Peshawar.
9. The PS to Secretary, LG,E&RDD.
10. The office order file.

(IZAZ ULLAH)
SECTION OFFICER (ESTAB)

[Handwritten signature]
11.04.14

To

The Worthy Chief Secretary
Government of Khyber Pakhtunkhwa
Civil Secretariat, Peshawar.

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Received
Hana M²
AS
33/04/018
4:50 PM

Through: Proper Channel.

Subject: **Departmental Representation for grant of Personal Upgradation to BPS-18 w.e.f. 13-09-2011 as granted to other Assistant Directors LG & RDD, junior to the appellants as per Final Seniority list at S.No. 10 to 19 circulated vide Notification No. SOE(LG)1-4/2003 Vol-II dated 25-07-2013 along with all Consequential Benefits**

Respected Sir,

1. That appellant and others were initially appointed as Progress Officers (BPS-16) in the then Local Government & Rural Development Department way back in the year 1988 on contract basis. Subsequently, they approached the Hon'ble Peshawar High Court Peshawar for regularization of their services but could not succeed and meanwhile their services were terminated. Their request before the Hon'ble Apex Court also failed and they were directed to approach the Provincial Service Tribunal. On their approach to the Service Tribunal their appeals were dismissed and consequently they again approached the Apex Court and finally their appeals allowed vide Judgment dated 25.08.2005 and appellant and others were reinstated into service *with all back benefits*.
2. That the judgment of the Hon'ble Apex Court was implemented by the Department by reinstating the appellant and others in service with all back benefits and regularized them with effect from the date of their initial appointment vide notification dated 10.11.2005 and 16.12.2005.
3. That since the appellant was also entitled for promotion to the higher grade as a consequence of the Judgment of the Hon'ble Apex Court which was denied to him, therefore, appellant and others filed writ Petition No.793/2007 in the Hon'ble Peshawar High Court Peshawar which was disposed of with certain observation vide order dated 18.10.2011 with direction to the Department to decide the matter in accordance with law.
4. That the Department, in the light of the Judgment *ibid*, took up the case of the appellant and others and asked for the advise of the Establishment Department and Finance Department as would be evident from the letter dated 26.11.2011 by answering the queries hinted to by the hon'ble Peshawar High Court, Peshawar in lucid manner. The Establishment Department vide letter dated 20.12.2011 advised that *in terms of the employees on contract basis (Regulation of services) Act, 1989 read with the Judgment of the Apex Court announced on 25.08.2005, the services of the appellant stood regularized with effect from the date of their contractual appointments. The Department is therefore, required to determine their seniority viz-a-viz those appointed on regular basis in the*

defunct Directorate and consider their promotion in the light of the service rules of their posts subject to the availability of vacant positions in the cadre/service group.

5. That later on, appellant and others were promoted to the post of Assistant Director (BPS-17) but with immediate effect instead of due date vide order dated 16.05.2013. The appellant and his other colleagues challenged the order *ibid*, to the extent of its immediate operation vide Departmental Appeal dated 10.06.2013 which was duly processed and culminated in approval by the competent authority vide statement wherein the appellant and others were shown to have been appointed w.e.f. 22.11.1988 thus the longstanding grievance of the appellant and others stood redressed.

6. That in the light of the approval mentioned above for further clarification of the seniority of the appellant and others the Department called for the advise of the Establishment Department vide letter dated 16.05.2013 upon which the Establishment Department gave its opinion vide letter dated 10.01.2014 whereafter a Tentative Seniority List was circulated vide letter dated 14.03.2014 showing the seniority position of the appellant as approved by the competent authority upon which appellant and others submitted the observations but meanwhile the those employces who became juniors as a result of regaining seniority of the appellant and others also submitted objections upon the seniority of appellant and others which was allowed vide order dated 22.05.2014 thereby again the appellant and others were wrongly held to be juniors and thus the earlier promotion with immediate effect of the appellant was restored by setting aside the order of the appellate authority i.e. the Chief Secretary and immediately the final Seniority List was issued vide letter dated 28.05.2014.

7. That after the order dated 22.05.2014 *ibid*, the final Seniority List of Assistant Directors/Planning Officers (BPS-17) was issued vide letter dated 28.05.2014 which was called in question by the appellant and others through departmental appeal in the first instance and then through Service Appeals before the Khyber Pakhtunkhwa Service Tribunal. During pendency of the appeals, the Representation was once again accepted and Tentative Seniority List was issued on 27.10.2015 whercin seniority positions were again restored however the date of Promotion was again shown as 16.05.2013 and 27.08.2012 instead of 22.11.1991, accordingly observations were raised on the Tentative Seniority List.

8. That the appellant and others withdrew their Service Appeals as the departmental appeal of the appellant was accepted, however, neither the final Seniority List was issued nor other back benefits were allowed inspite of acceptance of their appeal which again constrained the appellant and others to file writ petition No.1031-P/2017 before the Peshawar High Court, Peshawar, however, now the impugned Notification has been issued whereby again partially the grievances of the appellant and others have been redressed by granting them seniority but other back benefits including antedation of promotion has not been allowed. In this connection it is stated that as per letter dated 10-01-2014 of Establishment Department Govt of Khyber Pakhtunkhwa (copy attached) It was denied to notify the promotion of appellants with retrospective effect and from the date of seniority regained but now the said rule has been amended as per Establishment

Department Notification No. SO (policy)/E&AD/1-16/2017 dated 5-12-2017 is reproduced below with humble request to sympathetically consider amend and re notify in continuation of letter dated 10-01-2014.

- 8-1 After sub-para (h) of para IV the following sub-para (i) shall be inserted.
 "The mere fact that the seniority is sub-judiced will not debar the competent forum to make recommendation. However, in such cases following shall be applicable:
- (i) All promotion based on sub-judiced seniority will be conditional i-e subject to final outcome of Court cases.
 - (ii) An officer who gets his seniority restored and becomes senior to already promoted officers in the cadre will be considered for promotion by the relevant board from the date when his junior got promoted.
 - (iii) In case, the officer expires or retires from service and subsequently, his seniority is restored his case will be considered for proforma promotion alongwith all financial benefits.
 - (iv) Juniors promoted on sub-judice seniority list will be assigned seniority as per final Court Orders and will be reverted in case there is no vacancy."

9. Apart from the above it is also pertinent to worth mention that the Assistant Directors LG&RDD juniors to the appellant have been allowed personal upgradation to BPS-18 w.e.f. 13-09-2011 vide Notification No. SOE(LG)1-4/2003/Vol-II dated 25-07-2013 as evident from Seniority List at Serial No.10 to 19 circulated on dated 22-08-2017(copies attached) and the appellant and his other colleagues are also entitled for such personal upgradation w.e.f. the date juniors to the appellant were allowed such Personal Upgradation.

It is, therefore, humbly requested that on acceptance of this departmental Representation, the appellant Personal Upgradation as Assistant Director (BPS-18) may be antedated to 13-09-2011 with all consequential/financial back benefits please.

Yours faithfully

20/4/18

Sheraz Ahmad,
Assistant Director
LG/RDD Mohmand Agency.

Dated: 20 /04/2018

Copy to the Honorable Secretary LGE&RDD Govt of Khyber Pakhtunkhwa Peshawar for information and similar request as above please.

29/4/18
SECRETARY

MOST IMMEDIATE



**GOVERNMENT OF KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT**

- 43

No. SO(LG-I)/2-5/Up-gradation/2018
Dated Peshawar, the 25th May, 2018

To

The Secretary to Government of Khyber Pakhtunkhwa,
Finance Department, Peshawar.

SUBJECT:- DEPARTMENTAL REPRESENTATION FOR GRANT OF PERSONAL UP-GRADATION TO BPS-18 W.E.F 13.09.2011 AS GRANTED TO OTHER ASSISTANT DIRECTORS LG&RDD, JUNIOR TO THE APPELLANTS AS PER FINAL SENIORITY LIST AT S.NO. 10 19 CIRCULATED VIDE NOIFICATION NO. SOE(LG)1-4/2003 VOL-II DATED 25.07.2013 ALONGWITH ALL CONSEQUENTIAL BENEFITS

Dear Sir,

I am directed to refer to the subject cited above and to inform that the following Assistant Directors, LG&RDD have submitted departmental representations to the Chief Secretary, Khyber Pakhtunkhwa for grant of personal up-gradation from BPS-17 to BPS-18 with effect from 13.09.2011:-

1. Mr. Sheraz Ahmad
2. Mr. Abdul Rasheed
3. Mr. Shibli Khan
4. Mr. Fazlullah Khan
5. Mr. Shad Muhammad

2. Mr. Shad Muhammad who was promoted to the post of Assistant Director, LG&RDD on 27.12.2012 retired from service on attaining the age of superannuation i.e 60-years with effect from 03.04.2018. Mr. Sheraz Ahmad, Mr. Fazlullah and Shibli Khan have been promoted to the post of Assistant Director BPS-17, LG&RDD on 16.05.2013. Date of promotion of Mr. Abdur Rashid to the post of Assistant Director, LG&RDD on 27.08.2012. They have not completed the required length of 10-years service for up-gradation to the next higher pay scale as per up-gradation policy of the Provincial Government in vogue. They are claiming grant of up-gradation on the basis of seniority list circulated on 22.05.2017. Where the Junior Assistant Directors LG&RDD have been granted up-gradation from BPS-17 to BPS-18 with effect from 13.9.2011. However, the final seniority list of Assistant Directors LG&RDD is sub-judice in the Khyber Pakhtunkhwa Services Tribunal, Peshawar.

3. I am, further directed to seek advice of Finance Department regarding appellants' entitlement for up-gradation so that their appeals alongwith views of Finance Department could be submitted to the Chief Secretary, Khyber Pakhtunkhwa for appropriate orders.

Yours Faithfully

SECTION OFFICER (ESTAB)
Phone # 091-9213224

Endst. Of Even No. & Date

Copy is forwarded to:-

1. The Director General, LG&RDD Khyber Pakhtunkhwa Peshawar.
2. The PS to Secretary LG,E & RD Department Peshawar.

SECTION OFFICER (ESTAB)

MOST IMMEDIATE

Annexure
"H"

GOVERNMENT OF N.W.F.P.
ESTABLISHMENT DEPTT.
NO.SOS.POOL(E&AD)I-10/2002

Dated 23.8.2006.

- 44

To

1. The Secretary to Govt. of NWFP,
Finance Department.
2. The Secretary to Govt. of NWFP,
Local Govt. & RD Department.
3. The Secretary to Govt. of NWFP,
W & S Department.

(Annexure C)
Annex N

Subject:

INITIATION OF CONTEMPT OF COURT PROCEEDINGS AGAINST
THE RESPONDENTS FOR NOT IMPLEMENTING SUPREME
COURT'S DECISION DATED 25.8.2005

Dear Sir,

I am directed to refer to the application (copy enclosed) of Mr. Muhammad Iqbal and six others, submitted to the honourable Chief Justice of Pakistan for initiating contempt of court proceedings against Govt. of NWFP for not implementing Supreme Court judgment dated 25.8.2005 in Civil Appeals No.44, 45, 47 to 79 of 2005, 1409 of 2004 and 319 of 2005.

The case has been examined in this Deptt and it has been found that the applicants along with 37 others were appointed under the scheme "Strengthening of Local Government & Rural Dev. Deptt" purely on contract basis. In 1996, the Accountant General, NWFP stopped payment of salary, impelling them to file Writ Petition No.1084/1996 etc. but it was dismissed by the honourable High Court on 04.3.2003, as a result, they were laid off. They approached august Supreme Court of Pakistan and subsequently NWFP Service Tribunal. Ultimately, Supreme Court of Pakistan vide judgment dated 25.8.2005 declared them to be duly regularized civil servants, in the light of provision of the NWFP Employees On Contract Basis (Regularization of Service) Act No.VIII of 1989 and re-instated them in service with all back benefits.

In this connection, it may be pointed out that the term "benefits" means all facilities, rights and other benefits arising out of service in a department that would include salary, fixation of pay, seniority, promotion, earned leave etc., as held in 1999 PLC (CS) 489 (copy enclosed). In compliance with judgment dated 25.8.2005 of august Supreme Court of Pakistan, Government of NWFP in Local Govt. & RD Deptt re-instated them in service vide their Notification No.SO(LG-I)3-323/03 dated 10.11.2005 and 16.12.2005 (copies enclosed). However, due to abolition of the Directorate-General of LG Deptt and its allied offices in the settled districts in devolution process, they were placed in the S.Pool of LG Deptt for which Finance Deptt was to create requisite posts till

- 45

they are adjusted as per policy of Provincial Govt. On a summary of LG Deptt. the Chief Minister, NWFP has accorded approval for creation of requisite number of posts (copy enclosed).

I am further directed to invite your kind attention to this Deptt letter of even number dated 07.7.2006 and to state that a meeting under the chairmanship of Addl. Secretary (Estt), Establishment Deptt, NWFP (duly attended by your representatives) was held on 26.6.2006 in the said meeting it was decided that W&S Deptt will withdraw the requisition from the NWFP Public Service Commission wherein 22 posts of Sub Engineers were advertised so that 22 Sub Engineers of Local Govt. & RD Deptt re-instated by Supreme Court of Pakistan could be adjusted. Copy of the minutes of the said meeting is enclosed for ready reference.

Moreover, your kind attention is also invited to article 139 read with article 190 of the Constitution, whereunder the decision of Supreme Court of Pakistan is binding on all other courts and the Executive alike. All judicial and Executive authorities through out Pakistan are required to act in aid of august Court. In order to implement the judgment of august Supreme Court of Pakistan dated 25.8.2005 in letter and spirit, the Chief Secretary, NWFP has been pleased to order that:-

- (i) The Finance Department, NWFP may create requisite number of posts for the re-instated officers/officials and arrange for payment of arrears/salaries to them immediately.
- (ii) The LG&RD Deptt may, in consultation with Establishment and Finance Deptt draw up a proper service structure or adjust/absorb them in Government Departments to posts, carrying basic pay scale equal to the post held by them, as per section-11A of the NWFP Civil Servants Act, 1973.

You are, therefore, requested to kindly proceed further into the matter as per above orders pertaining to your respective Department.

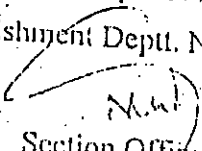
Yours faithfully,

(KALIMULLAH KHAN BALOCH)
Section Officer (S.Pool)

Encl. as above

Copy to the:-

1. PA to the Addl. Secretary (E), Establishment Deptt. NWFP.
2. PA to the Deputy Secretary (E), Establishment Deptt. NWFP.


Section Officer (S.Pool)



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GOVERNMENT OF KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS & RURAL DEVELOPMENT DEPARTMENT

Dated Peshawar the 25-07-2013.

NOTIFICATION.

No.SOB(LG) 1-4/2003/Vol-II. On the recommendations of the Up-gradation Committee in the Finance Department and approval of the Competent Authority, 17 posts of Assistant Directors/Planning Officers, LG,E&RDD are hereby up-graded from BPS-17 to BPS-18 (Personal) and consequently the following officers on the basis of seniority are allowed Personal up-gradation to EPS-18 with effect from 13-09-2011:-

1. Mr.Muhammad Zahoor, AD, FATA Secretariat, Peshawar.
2. Me.Muhammad Faheem, AD, FATA Secretariat, Peshawar.
3. Mr.Faiz Muhammad, AD, LG,E&RDD/Project Director, SADP, Peshawar.
4. Mr.Israr Ullah, AD, LG,E&RDD, Swabi.
5. Mr.Sardarul-Mulk, AD, LG,E&RDD, Malakand.
6. Mr.Akhtar Munir, AD, LG,E&RDD, Hangu.
7. Mr.Riaz Ahmad, AD, LG,E&RDD/PD, MSDP, Peshawar.
8. Syed Khalid Israr Shah, AD, LG,E&RDD, Lakki Marwat.
9. Mr.Sajid Gul, AD, LG,E&RDD/Secretary, PDA, Peshawar.
10. Mr.Said Rehman, Deputy Director, Dtc: General, LG,E&RDD.
11. Syed Hasnain Kazmi, AD, LG,E&RDD,
12. Mr.Muhammad Jehagir, AD, FATA, Secretariat, Peshawar.
13. Qazi Noorul Wahab, AD, LG,E&RDD, Mohmand Agency.
14. Mr.Alam Zeb, AD, LG,E&RDD, Khyber Agency.
15. Late Sakhi Jan, AD, LG,E&RDD (Deceased).
16. Late Abdul Qadir, AD, LG,E&RDD (Deceased).
17. Qazi Anwar Gul, AD, LG,E&RDD (Retired).

The post shall automatically be downgraded, as and when, vacated by the up-graded Officers.

Sd/xx xx xx

Secretary to Govt: of Khyber Pakhtunkhwa
Local Govt., Elections & Rural Dev: Deptt:

Endst: No.FD/SO(FR)7-14 /2013

dated Peshawar the 26-07-2013.

Copy of the above is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. All the District /Agency Accounts Officers in Khyber Pakhtunkhwa/FATA.

Fatima
Section Officer (FR),
Govt: of Khyber Pakhtunkhwa,
Finance Department.

Endst: of even No. & Date.

Copy of the above is forwarded to:-

1. The Director General, LG,E&RD, Peshawar.
2. The Director, FATA, LG&RD, Peshawar.
3. All the Assistant Directors, LG&RD in Khyber Pakhtunkhwa/FATA.
4. The Section Officer (FR) Finance Department.
5. The Budget Officer-XI, Finance Department.
6. The Section Officer (Estt.) LG,E&RDD.
7. All the Officers concerned.
8. The PS to the Secretary to Govt: of Khyber Pakhtunkhwa, LG,E&RDD.
9. The PS to the Secretary, Local Council Board, Peshawar.

[Signature]
Section Officer (Budget)

1 47 Arshad P

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.



Appeal No. 1647/2008

Date of Institution. .. 19.11.2008

Date of Institution 29.05.2009

Muhammad Zahoor S/O Sohrab Khan presently posted as
Planning Officer, Chitral.

(Appellant)

VERSUS

1. Government of NWFP through Chief Secretary, Peshawar.
2. Additional Chief Secretary, Planning & Development Department, NWFP Peshawar.
3. Secretary Local Government & Rural Development Department, Peshawar.
4. Secretary Establishment Department, NWFP Peshawar.
5. Javaid Khan C/O Local Government & Rural Development, Peshawar and 18 others. (Respondents).

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNAL ACT, 1974 AGAINST IMPUGNED NOTIFICATION NO. SO(LG-I)3-23/2003 DATED 10.1.2005 TO THE EXTENT WHEREBY APPELLANT IS PLACED IN THE SURPLUS POOL, IMPUGNED OFFICE ORDER NO. SO(ESTT)P&D/6-1/ADV/2007 DATED 26.4.2007 AND ORDER DATED 29.5.2007 WHEREBY APPELLANT IS POSTED AND ADJUSTED AS PLANNING OFFICER (BPS-17) IN PLANNING & DEVELOPMENT DEPARTMENT, DEPARTMENTAL APPEAL DATED 02.5.2007 IS REJECTED VIDE IMPUGNED APPELLATE ORDER DATED 06.11.2008.

MR. WAQAR AHMAD SETH,
Advocate.

For appellant.

MR ZAHID KARIM,
Addl. Government Pleader ..

For official respondents.

MR. MUHAMMAD ASIF YOUSAF,
Advocate ..

For private respondents.

MR. JUSTICE (R) SALIM KHAN, ...
MR. ABDUL JALIL KHAN, ...

CHAIRMAN
MEMBER.

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN.- This judgment will dispose of this Service Appeal No. 1647 of 2008 by Muhammad Zahoor, Service Appeal No. 1648 of 2008 by Muhammad Fahim and Service Appeal No. 1767 of 2008 by Arshad Zia. The reason is that common question of fact and law are involved in all of these three appeals.

ATTESTED

EXAMINER
NWFP Service Tribunal

Muhammad Zahoor, appellant, contended that his services were terminated, the August Supreme Court of Pakistan accepted his appeal vide judgment/order dated 25.8.2005 in Civil Appeals No. 44 to 79 of 2004 and Civil Petition No. 1409 of 2004 and 319 of 2005. It was declared that the appellant was an employee of the department and not of any scheme or project and by virtue of provisions of Act VIII of 1989 as amended had become regular civil servant. The appellant was reinstated vide order dated 10.11.2005 with all back benefits and was treated as regular from the date of initial appointment. But he was placed in the surplus pool of Local Government and Rural Development Department, illegally and unlawfully because respondent Nos. 5 to 23, who were junior to the appellant, were adjusted against the regular posts.

2. He further contended that the impugned orders dated 26.4.2007 and 29.5.2007 were issued, whereby the appellant was adjusted and posted in Planning & Development Department District Office at Chitral. A seniority list was circulated on 21.9.2006 wherein the appellant was shown at S.No.12 while respondents No. 5 to 23 were at S. Nos. 17 to 35 respectively. The appellant submitted representation, and a Writ Petition No. 1007 of 2007. The Hon'ble Peshawar High Court directed the departmental Authorities to treat the Writ Petition as departmental appeal for decision. The appeal was dismissed on 06.11.2008. The present appeal was filed on 19.11.2008. Muhammad Fahim, appellant, also contended on the same lines, with only difference that he claimed the presence of his name at S.No. 15 of the seniority list dated 21.9.2006. Arshad Zia, appellant, also has almost the same case and claimed that his name was at S.No. 14 of the seniority list. He further claimed that the impugned order was received by him on 21.11.2008. Like Muhammad Zahoor, the appeal of Muhammad Fahim, was filed on 19.1.2008, while the appeal of Arshad Zia was filed on 15.12.2008.

3. The official respondents and the private respondents contested the appeal. It was contended that the private respondents were adjusted prior to the reinstatement of the appellants, and the reinstated employees were placed in the Surplus Pool. The private respondents also contested the appeals. They contended that the ground reality was that the appellants were not regular employees, and they could not be adjusted against the regular posts. The learned counsel for the private respondents at the very outset contended that the appellants were declared surplus, prior to orders dated 26.4.2007 and 29.5.2007, but they had not challenged the mentioned orders, and no departmental appeal were submitted against the order dated 29.5.2007.

4. The learned counsel for the appellant submitted that the order dated 26.4.2007 was challenged and the subsequent orders, therefore, were to remain under

ATTESTED
[Signature]
NWFP Services Tribunal

- 49

challenge. The appellants were initially appointed on contract basis. But their services stood regular as a result of Act No. VIII of 1989. The office order dated 10.11.2005 clearly shows that the appellants were regular from the date of their initial appointment. The appellants, therefore, had become regular civil servants from the date of their respective appointment orders. The seniority list dated 21.9.2006 has rightly shown them as senior to respondents No. 5 to 23. The orders of placing the appellants in Surplus Pool, though senior to the private respondents mentioned above, was illegal, against the judgment of the August Supreme Court of Pakistan, and ab-initio void. No period of limitation was prescribed for challenging such orders. The order dated 26.4.2007 was challenged, and all the other relevant orders of the same nature and on the same subject, became disputed.

5. Under Article 189 of the Constitution of the Islamic Republic of Pakistan, any decision of the August Supreme Court of Pakistan shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan. The judgment in this case by the August Supreme Court of Pakistan had decided the question of law as framed and mentioned therein, and had also enunciated the principle of law. Under Article 190, all executive and judicial authorities, throughout Pakistan, including the department of the appellants and this Tribunal, were bound to act in aid of the Supreme Court of Pakistan. We have no other alternative but to declare that the appellants were regular civil servants from the date of their initial appointments, that they were senior to the private respondents, and the junior most among the private respondents, or others, who may be junior to the private respondents, had to be declared surplus, while the appellants, being seniors, could not be so declared surplus.

6. In view of the above, we accept all the three appeals, and we order the suspension of the impugned orders dated 26.4.2007, 29.5.2007 and the other relevant orders, whether earlier or later than the above mentioned orders, from the respective dates of their issue. We further direct the official respondents to take up an exercise urgently, declare the appellants to be posted to their regular posts, and, if need be, declare the junior most civil servants in the cadre as surplus, by rescinding the above mentioned impugned orders and the other relevant orders, w.e.f. the dates of their issue. The appellants are also entitled to their respective costs of litigations from the official respondents.

ANNOUNCED
29.05.2009

Sd/- Justice (R) Saleem Ullah
Chairman
Sd/- Abdul Jalil Ullah
Member

~~ANNOUNCED TO BE~~
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- 50 Anna Q²

GOVERNMENT OF KHYBER PAKHTUNKHWA,
LOCAL GOVERNMENT, ELECTIONS AND RURAL
DEVELOPMENT DEPARTMENT

NOTIFICATION

136-

Dated Peshawar, the 1st July, 2010

No.SO(LG-I)2-180/05/Vol:IV.- The Competent Authority, in consultation with the Departmental Promotion Committee is pleased to allow move-over from BPS-17 to BPS-18 in respect of Mr. Muhamad Zahoor, Assistant Director/Planning Officer, Directorate of FATA Local Government and Rural Development Department with effect from 01-12-2001.

SECRETARY TO GOVERNMENT OF
KHYBER PAKHTUNKHWA, LGE&RDD

Enclst. No. SO(LG-I)2-180/05 Dated Peshawar, the 1st July, 2010

Copy is forwarded to:-

1. The Additional Chief Secretary, FATA Secretariat Warsak Road, Peshawar
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. The AG PR Sub-Office, Peshawar.
4. The Director FATA LG&RDD, Warsak Road, Peshawar.
5. The PS to Secretary, LGE&RDD.
6. The Officer concerned.
7. Office order file.

(MUHAMMAD ISMAIL QURESHI)
SECTION OFFICER (ESTAB:)

*For immediate
M a*

A.P. Z. Murtaza

[Signature]
5/7/10



GOVERNMENT OF NORTH WEST FRONTIER PROVINCE
PLANNING & DEVELOPMENT DEPARTMENT

51

Amir R

Dated Peshawar the 16-11-2009

O R D E R

NO.SO(E)/P&D/087/22-6/M-over/2009 On the recommendation of the Departmental Promotion Committee, the competent authority has been pleased to grant move over from BPS-17 to BPS-18 to the following Planning Officers, Planning and Development Department with effect from 01-12-2001:

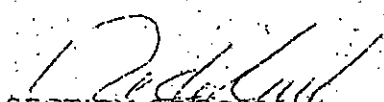
1. Mr. Sarfaraz Khan
2. Mr. Zafarullah Khan
3. Mr. Muhammad Iqbal Khan
4. Mr. Fakhruzz-Zaman

ADDITIONAL CHIEF SECRETARY,
NWFP

Encls. No. and Date Even

Copy is forwarded to the:-

1. Accountant General, NWFP, Peshawar
2. District Coordination Officers, Malakand
3. District Accounts Officer, Malakand
4. District Planning Officer, Malakand
5. Project Director, South FATA Development Project, Peshawar
6. Section Officer (B&A), P&D Department
7. P.S to Additional Chief Secretary, NWFP
8. Managing Director, FATA Development Authority, Peshawar
9. Officers concerned


SECTION OFFICER (ESTT.)

16/11/09

-52

Annex S

GOVERNMENT OF N.W.F.P.,
LOCAL GOVT. ELECTIONS AND RURAL
DEVELOPMENT DEPARTMENT

NOTIFICATION

Dated Peshawar, the 26th August, 2006

No. SO(LG-I)2-180/06/Vol:II.- The competent authority, in consultation with the Departmental Promotion Committee is pleased to allow move-over from BPS-17 to BPS-18 in respect of Mrs. Tahira Yasmeen, Assistant Directress, Local Government and Rural Development Department, Peshawar with effect from 1-12-1997.


SECRETARY TO GOVT. OF N.W.F.P.,
LOCAL GOVT. ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT

Endst. No. SO(LG-I)2-180/06/Vol:II

Dated Peshawar, the 26th August, 2006

CC.

1. The Accountant General, NWFP, Peshawar.
2. The Section Officer (General), LG & RDD.
3. The Officer concerned.
4. Personal file of the officer concerned.


(DIL MUHAMMAD)
SECTION OFFICER (ESTAB)



GOVERNMENT OF KHYBER PAKHTUNKHWA
PLANNING & DEVELOPMENT DEPARTMENT

TO BE SUBSTITUTED BY THIS DEPARTMENT ORDER OF EVEN NO. AND DATE

Dated Peshawar the July, 19.2005

NOTIFICATION

No. SO(ESTT):P&D/071/04/2009 Consequent upon approval of the Competent Authority and in pursuance of Government of Khyber Pakhtunkhwa, Finance Department, letter No. BOIV/FD/2-11/98-99-Vol-II, dated: 02.07.2005, sanction is hereby accorded to the creation of the 35 Nos. posts for Project Planning and Implementation Cell, in Planning & Development Department with effect from 01.07.2005 to 31.05.2006 on revenue side. Keeping in the view their satisfactory performance and vast experience and with the approval of the Competent Authority the services of the following staff of DERA Programme are hereby regularized and posted against the posts created in the mentioned Cell with effect from 01.07.2005.

| S.NO | NAME | DESIGNATION/BPS |
|------|----------------------|-------------------------------|
| 01. | Mr. Asad Ali Khan | Director/Chief (BPS-19) |
| 02. | Mr. Khalid Ali Sadig | Assistant Chief (BPS-18) |
| 03. | Syed Bilal Khairo | Research Officer (BPS-17) |
| 04. | Mrs. Firdous Bibi | Research Officer (BPS-17) |
| 05. | Mr. Yousaf Ali | Research Officer (BPS-17) |
| 06. | Mr. Masoud Ahmad | S.Scale Stenographer (BPS-15) |
| 07. | Mr. Mujahid Sabir | Computer Operator (BPS-11) |
| 08. | Mr. Riaz Ahmad | Computer Operator (BPS-11) |
| 09. | Mr. Jamil Ahmad | Assistant (BPS-11) |
| 10. | Syed Faridullah | Junior Clerk (BPS-05) |
| 11. | Mr. Shaffatullah | Junior Clerk (BPS-05) |
| 12. | Mr. Akhtar Gul | Junior Clerk (BPS-05) |
| 13. | Mr. Siraj Wali | Junior Clerk (BPS-05) |
| 14. | Mr. Jamdad Khan | Junior Clerk (BPS-05) |
| 15. | Mr. Abdus Salam | Junior Clerk (BPS-05) |
| 16. | Mr. Abdul Qayum | Driver (BPS-04) |
| 17. | Mr. Sher Zaman | Driver (BPS-04) |
| 18. | Mr. Himayatullah | Naib Qasid (BPS-01) |
| 19. | Mr. Wakil Khan | Naib Qasid (BPS-01) |
| 20. | Mr. Abdul Hamid | Naib Qasid (BPS-01) |
| 21. | Mr. Noor ul Amin | Naib Qasid (BPS-01) |
| 22. | Mr. Raqeesh | Naib Qasid (BPS-01) |
| 23. | Mr. Asghar Rahim | Naib Qasid (BPS-01) |
| 24. | Mr. Bostan Khan | Naib Qasid (BPS-01) |
| 25. | Mr. Muhammad Naeem | Naib Qasid (BPS-01) |
| 26. | Mr. Tariq Hussain | Naib Qasid (BPS-01) |
| 27. | Mr. Ahmad Abbas | Chowkidar (BPS-01) |
| 28. | Mr. Saïd Akbar | Chowkidar (BPS-01) |
| 29. | Mr. Jamil Rehmat | Sweeper (BPS-01) |

Additional Chief Secretary
Planning & Development Department

Endst. No.SO(ESTT):P&D/071/04/2000

Dated: 27.02.2012

Copy forwarded to the:-

1. Secretary to Chief Minister, Khyber Pakhtunkhwa
2. Accountant General, Khyber Pakhtunkhwa.
3. Director/Chief, Project Planning & Implementation Cell, P&D Department.
4. P.S.to Additional Chief Secretary, P&D Department.
5. P.A.to Secretary, P&D Department.
6. P.A.to Deputy Secretary (Admn.), P&D Department.
7. Officers/Officials concerned.

(KHURSHID ALAM)
SECTION OFFICER (ESTT.)

54 (Amendment)

AH

Amendment U-23

OBJECT:- FILING OF REVIEW PETITION AGAINST THE JUDGMENT OF SUPREME COURT OF PAKISTAN ANNOUNCED ON 25-8-2005

The Law Department had sent this case for filing Review Petition before the august Supreme Court of Pakistan, if found fit.

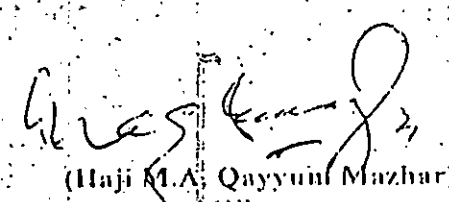
I have examined the case. In the instant case the detailed judgment of the august Supreme Court of Pakistan was announced as far back as 25-8-2005. The Department did not feel aggrieved to have filed review petition on some cogent, strong and sufficient grounds within the prescribed period of 30-days. Now after the lapse of about two years the Department thought to file review petition without providing any cogent, strong and sufficient grounds for filing review petition.

In the absence of any strong, cogent and sufficient grounds for applying for the condonation of inordinate delay coupled with the fact that no cogent, strong and sufficient grounds are forthcoming for filing review petition it cannot be filed now.

Hence it is not a fit case for filing Review Petition before the Supreme Court of Pakistan.

Ld. A.G.

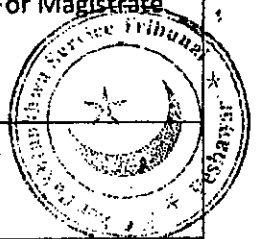
7/07/07


(Haji M.A. Qayyum Mazhar)
AOR
4-7-2007

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Amir V

| Sr. No | Date of order/proceedings | Order or other proceedings with signature of Judge or Magistrate |
|--------|---------------------------|---|
| 1 | 2 | 3 |
| | 03.01.2019 | <p style="text-align: center;">BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL Appeal No. 1182/2017</p> <p>Date of Institution ... 24.10.2017 Date of Decision ... 03.01.2019</p> <p>Akhtar Munir Assistant Director BPS-18, LG&RDD, Charsada. -----Appellant</p> <ol style="list-style-type: none"> 1. The Chief Secretary of Govt. Khyber Pakhtunkhwa Peshawar. 2. Secretary Local Government, Election & Rural Development Department Government of Khyber Pakhtunkhwa Peshawar. 3. Director Local Government & Rural Development Department, Govt. of Khyber Pakhtunkhwa. 4. Mr. Shad Muhammad, Assistant Director, LG&RDD, Torghar. 5. Mr. Sheraz Ahmad Assistant Director LG&RDD, Orakzai Agency. 6. Mr. Abdul Rashid Assistant Director LG&RDD, Haripur. 7. Mr. Faziullah, Assistant Director LG&RDD, Mardan. 8. Mr. Shibli Khan, Assistant Director LG&RDD, Swabi. <p style="text-align: right;">-----Respondents</p> <p>Mr. Hamid Farooq Durrani.....Chairman Mr. Hussain Shah.....Member</p> <p>JUDGMENT HUSSAIN SHAH, MEMBER: - Appellant, learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney on behalf of the official respondents and counsel for the Private respondents also present.</p> <p>2. The appellant was appointed as Assistant Director in the Local Government Election & Rural Development Department on 09.09.1993. The respondent No.2 issued a tentative seniority list of the Assistant Directors on 27.10.2015 for information of all concerned with remarks that the objection/reservations, if any of</p> |



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ATTACHED

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Khyber Pakhtunkhwa
Tribunal,
Peshawar

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-16-

members of the cadre of Assistant Directors, may be conveyed before 30.11.2015. The appellant conveyed his objection/reservation against the aforementioned seniority list within the stipulated time period on the ground that respondents No.4 to 8 had been shown senior to the appellant. The Competent Authority notified the final seniority list of the Assistant Director of the department On 22.08.2017 without considering the objections/reservations raised by the appellant. The appellant preferred a departmental appeal against the final seniority list on 06.09.2017 which was not accepted and the appellant was directed to seek remedy from the court of law. Feeling aggrieved the appellant preferred the instant service appeal on 24.10.2017 with the prayer that on acceptance of the instant appeal, the seniority position of the appellant be rectified as per basic pay scale and the appellant be declared senior to the respondents No. 4 to 8 with such other relief as may deem fit in the circumstances of the case also be granted.

3. The learned counsel for the appellant argued that the appellant was appointed as Assistant Director on 09.09.1993 in BPS-17 while at that time the respondents No. 4 to 8 were working in BPS-16 as contract employees in a project. The appellant was granted personal up-gradation in BPS-18 on 27.05.2013 while the respondents' No. 4 to 8 were promoted to BPS-17 on different dates in the year 2012 & 2013. The learned counsel for the appellant referred to rules 17 (03) of the Khyber Pakhtunkhwa Civil Servants (Appointment,

TESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Promotion and Transfer) Rules, 1989 wherein it has been provided that *"Seniority in various cadres of Civil servants appointed by initial recruitment vis-a-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment"*. As the appellant was appointed as Assistant Director on 09.09.1993 while the respondents No. 4 to 8 were appointed on promotion as Assistant Director in year 2012 & 2013 hence the appellant stands senior to the private respondents therefore the appeal may be accepted as prayed.

4. Contesting the facts, grounds and prayer of the appellant the private respondents' No. 5 to 8 submitted detailed Para-wise comments and Mr. Khalid Rehman, the learned counsel for the replying private respondents, argued the case on their behalf. In reply to the facts the learned counsel for replying respondents argued that they were initially appointed as progress officer (BPS-16) on contract basis. They were regularized, sequel to the judgment of Hon'ble Apex Court, dated 25.08.2005 read with the Employees on contract Basis (Regularization of Services), Act 1989 from the date of their initial appointment vide notification dated 10.11.2005 and 16.12.2005. They were promoted to BPS-17 as Assistant Director in the year 2012 and 2013 with immediate effect. The learned council for respondents no 5 to 8 further argued that the Impugned Seniority list had been issued in response to the claim of

ATTESTED

EXAMINER
Cyber Pakhtunkhwa
Service Tribunal,
Peshawar

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the private respondents on the ground that their services as planning officers in the project be considered as the date of their entry in to the cadre of Assistant director. He further argued that at the stage of departmental representation the Appellant and his colleague challenged the impugned seniority list vide a joint representation which is against the law.

5. The joint reply of the official respondents was argued by the learned DDA and relied mainly on the arguments of the learned counsel of the private respondents 5 to 8. It was contented that private respondents were initially appointed as progress officer (BPS-16) in a project on contract bases and they were regularized as Progress officer in the light of the Judgment of the Supreme Court and their seniority was determined as Progress Officers. Latter on the Private Respondents were promoted to the post of Assistant Directors in the years 2012 and 2013. The learned DDA further argued that the impugned seniority was issued after consultation with the Establishment Department.

6. Arguments heard. File perused.

7. The Tribunal examined the record on file and the arguments of the learned counsels of the parties. It is an admitted fact that the appellant was appointed as Assistant Director in the department on 09-09-1993 on the recommendation of the Khyber Pakhtunkhwa Public Service Commission. It is also an admitted fact that the private respondents were initially appointed on contract as progress officers in a project and they were regularized in the light of the

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ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

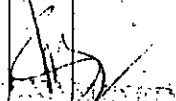
- 59

- 19 -

judgment of the Honorable Supreme Court of Pakistan. It is also admitted fact that the private respondents were promoted to the post of Assistant Director in the years 2012 and 2013. According to the relevant provision of the Section 8 (4) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule-17 of the KPK Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 the seniority in a cadre, post or service is reckoned from the date of regular appointments of a civil servant. Moreover Sub-rule 2 of Rule-17 of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 provides the touch stone to resolve the instant dispute which is reproduced herein again, "*Seniority in various cadres of Civil servants appointed by initial recruitment vis-a-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment*".

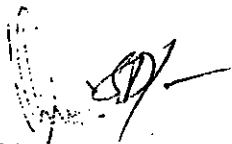
According to the facts as on file appellant was appointed on regular basis as Assistant Director in LGRRD Department on 09-09-1993 while the private respondents were appointed as Assistant Director in the year 2012 and 2013. As such on the basis of the date of regular appointment as Assistant Director the appellant is senior to the private respondents. As regarding the regularization of the private respondents from the date of their initial appointment as progress officers in BPS-16 and counting their subsequent seniority

ATTESTED

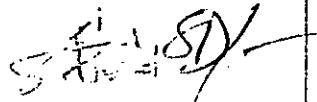

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

from their initial appointment is concerned this tribunal is of the view that it cannot be counted for determining their seniority in the cadre or post of Assistant Directors. Their seniority as Assistant Directors in the department shall be determined from the date of their regularly appointed on promotion as Assistant Director and not from the date of their regularization of service as progress officer in BPS-16. In the presence of the explicit provisions of law no interpretation against the spirit of law through advices or consultation among the government department stands grounds.

8. In view of the above discussion the appeal is accepted with direction to the respondents department to place the appellant senior to the private respondents No.5 to 8. Parties are left to bear their own costs. File be consigned to the record room.



(HAMID FAROOQ DURRANI)
CHAIRMAN



(HUSSAIN SHAH)
MEMBER

ANNOUNCED
03.01.2019

Date of Presentation of Appeal 03-01-19
 Number of Words 2800
 Copying Fee 16
 Urgent —
 Total 16
 Name of Applicant [Signature]
 Date of Completion of Copy 04-02-19
 Date of Delivery of Copy 04-02-19

Certified to be true copy
 K. S. Peshawar
 [Signature]

- 61

Amir W

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
MR. JUSTICE SAJJAD ALI SHAH
MR. JUSTICE JAMAL KHAN MANDOKHAIL

Civil Petition No. 1142 of 2019
(On appeal from the judgment of the Khyber Pakhtunkhwa Service Tribunal dated 03.01.2019 passed in Appeal No. 1182 of 2017)

Sheraz Ahmad & others: **Petitioner(s)**

Versus

Akhtar Munir & others: **.....Respondent(s)**

For the Petitioner(s): Mr. Wasim ud Din Khattak,
ASC along with petitioner

For the Respondent(s): N.R

Date of hearing: 14.04.2022

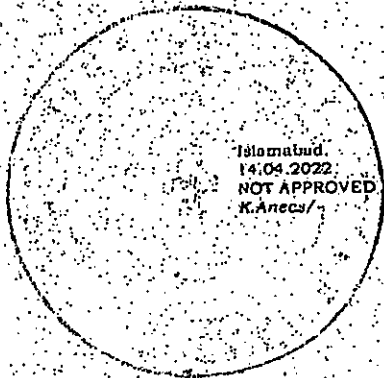
ORDER

Sajjad Ali Shah, J.- We have heard the learned counsel for the petitioners and perused the record minutely. He was not able to point out any question of law of public importance in terms of Article 212(3) of the Constitution of Islamic Republic of Pakistan, 1973, warranting interference by this Court. This petition is accordingly dismissed and leave to appeal is refused.

Sd/-
Sd/-

Certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Islamabad



Case No: 7784/22 Civil/Criminal
Date of Filing: 14-4-22
Fees: 300
Court Fee: 3
Total: 5.00
Court Fee Stamp: 1.86
Date of Court: 25-4-22
Date of Dec: 28/4/22
Compared: [Signature]
Received By: M. S. Khattak



- 62 Annex X

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT**

NOTIFICATION

Dated: the Peshawar 09th April, 2021 | 1554

No. SO(E-I)/LG/3-11/Pension/2021. - In pursuance of Sub Section (1&2) of Section-13(A) of the Khyber Pakhtunkhwa Civil Servants Act-1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), read with Sub Section (3), Mr. Akhtar Munir, Deputy Director (BPS-18), Directorate General of Local Government & Rural Development stands retired from Government service w.e.f 31.03.2021 on attaining the age of superannuation (60 years). According to CNIC, his Date of Birth is 01/04/1961.

**Secretary to Govt: of Khyber Pakhtunkhwa
Local Govt; Elections & Rural Dev: Department**

Copy forwarded to the:

1. Accountant General Khyber Pakhtunkhwa.
2. Commissioner, Hazara Division.
3. Deputy Commissioner, Upper Kohistan.
4. Deputy Commissioner, Lower Kohistan.
5. Director General, LG&RD Department.
6. District Accounts Officer, Upper Kohistan.
7. District Accounts Officer, Lower Kohistan.
8. Assistant Director, LG&RD Department, Upper Kohistan.
9. Assistant Director, LG&RD Department, Lower Kohistan.
10. Officer concerned.
11. PS to Minister for LG,E&RD, Khyber Pakhtunkhwa.
12. PS to Secretary, LG,E&RD Department.
13. PF of the Officer concerned.
14. Office File.

Akhtar


(MASH QAYYUM KHAN)
DEPUTY SECRETARY (ADMIN:)

MJB
Assistant C. Secy (Ops)
Directorate General, LG&RD
Khyber Pakhtunkhwa

(27) - 63
Amir Y²

To

The Secretary LGE&RDD
Khyber Pakhtunkhwa

Amir K

Subject: Joint Appeal/Representation against the Final Seniority List of Assistant Directors (BPS-17) LGE&RDD as stood on 30-12-2016

Dear Respected Sir,

We the following applicants hereby submit this joint appeal/representation against the Final Seniority List of Assistant Directors (BPS-17) LGE&RDD as stood on 30-12-2016, issued by the Local Government Department vide Notification No.SO(LG-I)4-118/ADS/S.LIST/2017/VOL-II/1945-65 dated Peshawar August 22, 2017 on the basis of following reasons/pleas.

1. The cited notification is suffering from gross and obvious errors, mistakes and misrepresentation of facts, which if not corrected at the outset, shall land the department in unnecessary litigations. The most obvious errors are being pointed out as under;

i) Quite a number of young officers, who joined the cadre almost two years back on the recommendations of the KP-Public Service Commission (in November 2015) have not been included in this so called Final Seniority List, which is not only against the rules and past precedents but has also sent a very negative message to the young officers who are supposed to serve the department for the next 30-35 years. The detail of officers omitted from the seniority list is attached at Annexure-I.

ii) The total number of sanctioned posts of Assistant Directors shown (BPS-17) as (41Nos) on top of the Final Seniority List of the cited notification is also miss-matched with the approved budget book/sanction issued by the Finance Department. The sanctioned budget book for FY 2016-17 includes 20 posts of Assistant Directors/Deputy Directors in BPS-18/19 (02 posts in BPS 19 and 18 posts in BPS-18) and 44 posts of Assistant Directors in BPS-17. Copy of the Budget Book/Sanction is attached at Annexure-II.

*Adm Secy
P. Amine
put up request
to register
by request*

198/9

Pl. Pu.

SC (R)

19/09

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- 64 -

- iii) The date of promotion/personal upgradation of the senior Assistant Directors from BPS-17 to BPS-18 at Serial No 1, 2, 3, 4, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 has been shown as 25-07-2013 whereas the actual date of effect of their upgradation order to BPS-18 is 13-09-2011. Copy of the Finance Department Notification is at Annexure-III.
- iv) Due to misrepresentation of facts and erroneous interpretation of rules, court directions, the officers at Serial No 5, 6, 7, 8 and 9 of the Seniority List have been shown as senior to Officers at Serial No 10-19 of the cited list. It is very astonishing that BPS-17 officers have been shown seniors to BPS-18 in the same list. The administrative Department, reportedly, while soliciting opinion from the Establishment Department on the interpretation of the court decision, concealed some important facts from the Establishment Department, leading to unnecessary correspondence and rendering the Instant Seniority List disputed. The fact of the case is that the officers at Serial No 5, 6, 7, 8 and 9 were appointed in the department as "Progress Officer in BPS-16" purely on contract basis. They were removed from service and reinstated on the directions of the supreme court of Pakistan. Through amendments in the service rules, the Progress Officers in BPS-16 became eligible for promotion to the posts of Assistant Directors in BPS-17 in 1995. They only got promoted to BPS-17 in 2012 and 2013. Whereas the Officers from Serial No 10-19 were appointed through PPSC in 1993 and upgraded to BPS-18 in September 2011. Thus the officers at Serial No 10-19 were senior not only in BPS-17 but also in BPS-18. Copy of the appointment orders of both the cadre are given at Annexure-IV.
- v) The Administrative Department, while soliciting opinion/view from the Establishment Department in the subject matter, failed to consult/highlight the Peshawar High Court (PHC) decision W.P No. 1879 of 2006 dated 15/04/2009 given in favour of the Applicants at Serial No 3,4 and 10-19 and which was also upheld by the Supreme Court of Pakistan Vide Decision C.P No.343-P of 2009 dated 08/04/2010 when the department preferred an appeal against the PHC decision. The concluding para of the PHC decision clearly directed the administrative department to give proper service structure by ensuring career progression to the appellants. And similarly, no order shall be passed which is detrimental to the service interest of the petitioners. Copies of PHC and SC Decisions are at Annexure-V and Annexure-VI Respectively.

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vi) The Entries shown in column No 11 of the final seniority list of the cited notifications against Serial No 1, 2, 3, 4, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 are seriously flawed and against the facts available on file/record. For example the Officer at 17, 18, have been shown as promoted to present scale on 26-12-1996 and that at Serial No 19 as 26-12-1986 which is totally against the fact.

vii) On the point of "Personal Upgradation" mentioned against 14 senior most officers in the list by the establishment section of LGE&RDD is also very humiliating as they were personally to BPS-18 by the Finance Department on 13-09-2011 but they are not being regularized/permanently promoted despite the fact that sufficient number of BPS-18/19 sanctioned posts are available in the cadre and they have been kept deliberately in "Personally upgraded" status for the last six years.

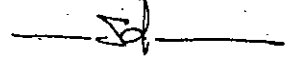
2 In view of the facts mentioned above and in order to save the applicants from indulging in lengthy litigations in the court of law, it is requested that

i) The Instant Notification of August 22, 2017 regarding the final seniority list may be cancelled/withdrawn with immediate effect.

ii) The Additional Secretary LGE&RDD or the Special Secretary LGE&RDD, who both are well conversant with the establishment matters, may be authorised to review all the facts relevant to the case and compile an error-free Seniority List, by addressing the above mentioned genuine grievances of the applicants.

iii) Due workload in the Establishment Branch of LGE&RDD, the subject of Seniority List and promotion cases of the Employees of Directorate General LG&RD may please be assigned to the Director General LGE&RDD for expeditious disposal under the oversight of the Administrative Secretary.

Sincerely Your's

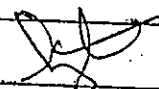
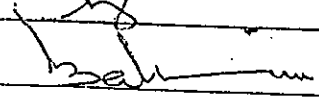
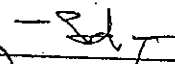
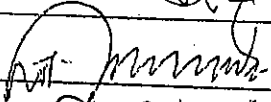
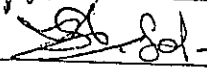


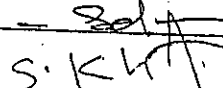
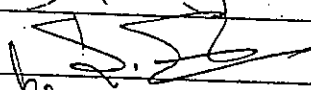
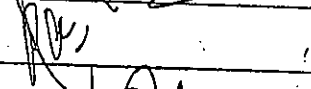

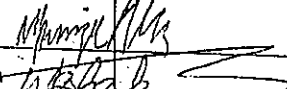
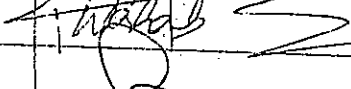



Appellants (List attached)

Dated Peshawar September 14, 2017

(30) - 66

List of Appellants

| S. NO | Name of Officer | Signature |
|-------|---------------------|---|
| 1 | Muhammad Zahoor |  |
| 2 | Muhammad Faheem |  |
| 3 | Faiz Muhammad Khan |  |
| 4 | IsrarUllah |  |
| 5 | SardarulMulk |  |
| 6 | Akhtar MunirUmarzai |  |
| 7 | Riaz Ahmad |  |
| 8 | Khalid Israr Shah |  |
| 9 | Sajid Gul |  |
| 10 | Said Rehman |  |
| 11 | Syed HsuanainKazmi |  |
| 12 | Muhammad Jehangir |  |
| 13 | Qazi Noor ulWahab |  |
| 14 | Alam Zeb |  |



-67
Ann-6

(31)

**Government Of Khyber Pakhtunkhwa
Local Government, Elections & Rural
Development Department**

No: SO(LG-I)/4-118/ADS/S.List /2016
Dated Peshawar, the 13-10-2017

To

1. Mr. Muhammad Zahoor, AD, Directorate General, LG&RDD, Peshawar
2. Mr. Muhammad Fahim, AD, Directorate General, LG&RDD, Peshawar
3. Mr. Faiz Muhammad Khan, DD, Directorate General, LG&RDD
4. Mr. Israrullah Khan, AD, Directorate General, LG&RDD Peshawar
5. Mr. Shad Muhammad, Assistant Director, LG&RDD Torghar
6. Mr. Sheraz Ahmad, Assistant Director, LG&RDD, Mohmand Agency
7. Mr. Abudur Rashid, Assistant Director, LG&RDD, Haripur
8. Mr. Fazlullah, Assistant Director, LG&RDD, Malakand
9. Mr. Shibli Khan, Deputy Director, Directorate General, LG&RDD
10. Mr. Sardarul Mulk, Assistant Director, LG&RDD, Swat
11. Mr. Akhtar Munir, Assistant Director, LG&RDD, Charsadda
12. Mr. Riaz Ahmad, Assistant Director, Directorate General, LG&RDD
13. Syed Khalid Israr Shah, DD, Local Government Commission, LG&RDD
14. Mr. Sajid Gul, Secretary Delimitation Authority, Peshawar
15. Mr. Said Rahman, AD, LG&RDD (New Director Coordinator CDLD)
16. Syed Hasnain Kazmi, AD, Directorate General, LG&RDD
17. Mr. Muhammad Jehangir, Assistant Director, Directorate FATA, LG&RDD, Warsak Road Peshawar
18. Qazi Noorul Wahab, Assistant Director, LG&RDD, Peshawar
19. Mr. Alam Zeb, AD, Dtt: FATA, LG&RDD Warsak Road, Peshawar
20. Mr. Salim Raza, AD, Directorate General, LG&RDD, Peshawar
21. Mr. Asadullah, AD, Directorate General, LG&RDD.

SUBJECT:- JOINT APPEAL / REPRESENTATION AGAINST THE FINAL SENIORITY LIST OF ASSISTANT DIRECTORS (BPS-18) LG&RDD AS STOOD ON 30.12.2016

I am directed to refer to your appeal on the subject cited above and to inform that after examination of your representation / objections on tentative seniority list by the Competent Authority, final seniority list of Assistant Directors LG&RDD as stood on 30-12-2016 has been circulated vide notification No. SO(LG-I)4-118/ADS/S.LIST/2017/VOL-II/1945-65, dated 22nd August, 2017 with the approval of Competent Authority as well as the Appellate Authority accordingly. However, you are at the liberty to seek remedy in the court of law if so desire.

SECTION OFFICER (ESTAB)
Phone # 091-9213224

Endst. Even No. & Date

- Copy is forwarded to:-
1. The PS to Chief Secretary, Khyber Pakhtunkhwa.
 2. The Director General, LG&RDD Khyber Pakhtunkhwa Peshawar.
 3. The PS to Secretary LG,E&RD Department Peshawar.
 4. The PS to Special Secretary, LG,E&RD Department Peshawar.

SECTION OFFICER (ESTAB)



- 68 Part 2

Government of Khyber Pakhtunkhwa
Local Government, Elections and Rural Development Department

NOTIFICATION

Dated Peshawar the, 10th May, 2019

No.SO(LG-I)2-355/ADs-Promotion/2019.- The Competent Authority on the recommendations of Provincial Selection Board has been pleased to promote the following Assistant Directors (BPS-17), LG&RDD to the post of Deputy Directors / Assistant Directors (Senior) BPS-18 in Local Government, Elections and Rural Development Department Khyber Pakhtunkhwa on regular basis with immediate effect:-

| S# | Name of Assistant Director | Present place of posting |
|----|----------------------------|--|
| 1 | Mr.Sardarul Mulk | AD(Senior),LG&RDD, Swat |
| 2 | Mr.Akhtar Munir Umerzai | AD, LG&RDD, Charsadda |
| 3 | Mr.Riaz Ahmad | AD (Senior), LG&RDD, Peshawar |
| 4 | Mr.Sajid Gul | Secretary, Provl:Delimitation Authority |
| 5 | Mr.Said Rehman | Addl:Secretary, LCB (On deputation) |
| 6 | Mr.Muhamamd Jhangir | AD, Directortate Merged FATA Secretariat, LG&RDD |
| 7 | Qazi Noorul Wahab | AD, LG&RDD Tribal District Khyber |
| 8 | Mr.Sheraz Ahmad | AD, LG&RDD, Tribal District Mohmand |
| 9 | Mr.Abdul Rashid | AD(Senior), LG&RDD, Haripur |
| 10 | Mr.Fazlullah | AD(Senior), LG&RDD, Mardan |
| 11 | Mr.Asadullah | AD(Senior), LG&RDD, Swabi |

2. On their promotion, the officers will remain on probation in terms of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.
3. Consequent upon their promotion, the adjustment orders of the above officers are being issued separately.

SECRETARY TO GOVT.OF KHYBER
PAKHTUNKHWA, LG,E&RDD

Endst No. SO(LG-I)2-355/AD's Promotion/2019 Dated Peshawar the 10th May, 2019

Copy is forwarded to:-

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. The Director General, LG&RDD, Khyber Pakhtunkhwa, Peshawar.
4. The Director Merged FATA Secretariat, LG&RDD, Warsak Road, Peshawar
5. All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa.
6. All District Accounts Officers in Khyber Pakhtunkhwa.
7. The officers concerned.
8. The Manager, Government Printing Press, Peshawar.
9. Personal file of the officer concerned.
10. The PS to Secretary, LG,E&RDD.
11. Office order file.

(Haji Muhammad)
Section Officer(Estab.)
Ph: # 091-9213224

NO: PR-5 (M) 2006-07/1214-19 /DATED: 14-9-06

To,

Mr. Shiraz Ahmad Progress Officer,
(Sur Plus Pool) LG & RDD,
Peshawar.

Subject: RIVISED PAY SLIP

Memo,

Consequent upon the reinstatement in service VIZ-30-5-2003, and regularization service with all back benefits from the date of initial appointment.

You are here by authorized to draw pay and allowances at the following rates.

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|-----------------|----------|----------|----------|----------|----------|--------------------|----------|
| | 22-11-88 | 01-12-89 | 01-12-90 | 01-06-91 | 01-12-91 | Mardan 01-01-92 | 01-12-92 |
| Pay Rs. | 1350/- | 1455/- | 1560/- | 2167/- | 2313/- | 2313/- | 2459/- |
| HRA | 405/- | 405/- | 405/- | 563/- | 563/- | 563/- | 563/- |
| I.P | 38.61 | 41.63 | 44.61 | - | - | - | - |
| Adhoc Rel | - | - | - | - | - | - | 100/- |
| Total Rs | 1793/61 | 1901/63 | 2009/61 | 2730/- | 2876/- | 2876/- | 3122/- |

| | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
|-----------------|----------|----------|----------|----------|----------|----------|----------|
| | 01-12-93 | 01-06-94 | 01-12-94 | 01-06-95 | 01-12-95 | 01-12-96 | 01-12-97 |
| Pay Rs. | 2605/- | 3520/- | 3717/- | 3717/- | 3914/- | 4111/- | 4308/- |
| HRA | 563/- | 563/- | 563/- | 563/- | 563/- | 563/- | 563/- |
| 7% CA | - | - | - | 260/- | 274/- | 288/- | 302/- |
| Adhoc Rel | 100/- | - | - | - | - | - | 300/- |
| SAA | - | - | - | - | - | - | 300/- |
| Total Rs | 3268/- | 4083/- | 4280/- | 4540/- | 4751/- | 4962/- | 5473/- |

-70

| | 15 | 16 Dir (lower) | 17 | 18 | 19 Mardan | 20 | 21 |
|-----------------|---------------|-------------------|---------------|---------------|---------------|---------------|---------------|
| | 01-12-98 | 12-03-99 | 01-07-99 | 01-12-99 | 22-02-00 | 01-12-000 | 31-07-01 |
| Pay Rs. | 4505/- | 4505/- | 4505/- | 4702/- | 4702/- | 4899/- | 4899/- |
| HRA | 563/- | 563/- | 563/- | 563/- | 563/- | 563/- | 563/- |
| 7% CA | 315/- | 315/- | 315/- | 329/- | 329/- | 343/- | 343/- |
| Adhoc Rel | 300/- | 300/- | 300/- | 300/- | 300/- | 400/- | 400/- |
| 25% SAA | - | - | 634/- | 634/- | 634/- | 634/- | 634/- |
| UAA | - | 125/- | 125/- | 125/- | - | - | - |
| Total Rs | 5683/- | 5808/- | 6442/- | 6653/- | 6528/- | 6839/- | 6839/- |

| | 22 Surplus Pool | 23 | 24 | 25 | 26 | 27 | 28 |
|-----------------|--------------------|---------------|---------------|----------------|----------------|----------------|----------------|
| | 01-08-01 | 01-12-01 | 01-12-02 | 01-07-03 | 01-12-03 | 01-07-04 | 01-12-04 |
| Pay Rs. | 4899/- | 7640/- | 7935/- | 7935/- | 8230/- | 8230/- | 8525/- |
| HRA | 563/- | 563/- | 563/- | 844/- | 844/- | 844/- | 844/- |
| 7% CA | 343/- | - | - | 340/- | 340/- | 340/- | 340/- |
| 15% SRA | 634/- | - | - | 1190/- | 1235/- | 1235/- | 1279/- |
| SAA | 634/- | 634/- | 634/- | 634/- | 634/- | 634/- | 634/- |
| AR | 400/- | - | - | - | - | 1235/- | 1279/- |
| Total Rs | 6839/- | 8837/- | 9132/- | 10943/- | 11283/- | 12518/- | 12901/- |

-71

| | 29 | 30 |
|----------|----------|----------|
| | 01-07-05 | 01-12-05 |
| Pay Rs. | 9815/- | 10155/- |
| HRA | 1969/- | 1969/- |
| SAA | 634/- | 634/- |
| CA | 1240/- | 1240/- |
| 15% SRA | 1279/- | 1279/- |
| Total Rs | 16216/- | 16556/- |

Assistant Accountant General
NWFP Peshawar

Copy Forwarded to:

1. Secretary Local Government and Rural Development Department NWFP Peshawar.
2. District Accounts Officer ~~Moody~~ for scaled payment and service statement with effect from 1-1-1992 to 11-03-1999 and 22-02-2000 to 31-07-2001.
3. District Accounts Officer ~~Dir (Jawar)~~ for scaled payment and service statement with effect from 12-03-1999 to 21-02-2000.

2018
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2008

Note:

1. Less Pay & Allowances already drawn
2. Deductions at Prescribed rates.

o/c

Assistant Accountant General
NWFP Peshawar
16/9/16

MOST IMMEDIATE



REGISTERED - 72
Government Of Khyber Pakhtunkhwa
Local Government, Elections & Rural
Development Department

Amak "BB"

No. SO(LG-I)/4-118/ADs/S.List /2019/1460
Dated Peshawar, the 19.03.2019

To

1. Mr. Sardar-Ul-Mulk, Assistant Director (Sr.), LG&RDD, Swat.
2. Mr. Akhtar Munir, Assistant Director, LG&RDD, Charsadda
3. Mr. Riaz Ahmad, Assistant Director (Sr.), LG&RDD, Peshawar.
4. Mr. Sajid Gul, Secretary Provincial Delimitation Authority, LG&RDD.
5. Mr. Said Rahman, Additional Secretary, LCB, Hayatabad Peshawar.
6. Mr. Muhammad Jehangir, Assistant Director, LG&RD, Merged Area Secretariat, Peshawar.
7. Qazi Noorul Wahab, Assistant Director, LG&RD, Tribal District Khyber.
8. Mr. Sheraz Ahmad, AD, LG&RD, Tribal District Mohmand.
9. Mr. Abudur Rashid, Assistant Director, LG&RDD, Haripur.
10. Mr. Fazlullah, Assistant Director, LG&RDD, Mardan.
11. Mr. Shibli Khan, AD, Directorate General, LG&RDD, Peshawar.
12. Mr. Asadullah, Assistant Director, LG&RDD, Swabi.
13. Mr. Shams-Ul-Arifeen, Assistant Director (Admin / HR), Directorate General, LG&RDD, Peshawar.
14. Mr. Ali Asmat, Assistant Director (Jr.), LG&RDD Peshawar.
15. Mr. Nisar Ahmad, Assistant Director (Litigation), Directorate General, LG&RDD, Peshawar.
16. Mr. Kashif-Ur-Rehman, Assistant Director, LG&RDD D.I.Khan.
17. Mr. Sajid Javed, Assistant Director, Government of Pakistan Intelligence Bureau, Islamabad.
18. Mr. Zeeshan Ali Shah, Assistant Director, LG&RDD Nowshera.
19. Mr. Muhammad Haroon, Assistant Director (Jr.), LG&RDD Haripur.
20. Mr. Muhammad Naeem, AD, LG&RD District Tribal South Waziristan.
21. Mr. Mosam Khan, Assistant Director, LG&RDD Tank.
22. Mr. Muhammad Aleem, Assistant Director (Jr.), LG&RDD Mansehra.
23. Mr. Dilawar Khan, Assistant Director, LG&RD, Tribal District Bajur
24. Mr. Abid Zaman, Assistant Director, LG&RDD Hangu.

SUBJECT:- FINAL SENIORITY LIST OF ASSISTANT DIRECTORS (BPS-17) LG&RDD AS STOOD ON 28.02.2019

I am directed to refer to the subject cited above and to state that in implementation of Judgement of Khyber Pakhtunkhwa Services Tribunal, Peshawar in Service Appeal No. 1182/2017- Mr. Akhtar Munir VS Local Government Khyber Pakhtunkhwa and others, the final seniority list of Assistant Directors, LG&RDD as stood on 28.02.2019 is circulated amongst all for your information and record.

Encl: As above.

SECTION OFFICER (ESTAB)
Phone # 091-9213224

Endst. Even No. & Date

Copy is forwarded to:-

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
2. The Director General, LG&RDD Khyber Pakhtunkhwa Peshawar.
3. The Director LG&RD, Merged Area Secretariat, Warsak Road Peshawar.
4. The Manager Government Press Printing Peshawar.
5. The PS to Secretary LG,E&RD Department Peshawar.

SECTION OFFICER (ESTAB)



Government Of Khyber Pakhtunkhwa,
Local Government, Elections & Rural Development Department

NOTIFICATION

Dated Peshawar, the 19th March, 2019

No. SO(LG-D)4-118/ADS/S.LIST/2017/VOL-II- In pursuance of Section-8 of the Khyber Pakhtunkhwa, Civil Servants Act, 1973 and Judgement of Khyber Pakhtunkhwa Services Tribunal, Peshawar in Service Appeal No. 1182/2017-Mr. Akhtar Munir VS Local Government Khyber Pakhtunkhwa and others, final seniority list of Assistant Directors, Local Government, Elections & Rural Development Department Khyber Pakhtunkhwa as it stood on 28.02.2019 is notified as under:-

FINAL SENIORITY LIST OF ASSISTANT DIRECTORS (BPS-17) LG&RDD AS STOOD ON 28.02.2019

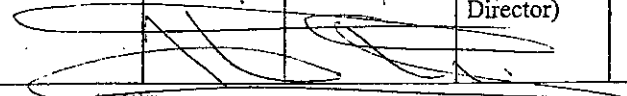
| S# | Name of officer | Edu Quall | Domicile | Date of Birth | Date of 1 st Entry into Service | 1 st regular appointment to service / cadre | | | Promotion to present BPS | | Remarks if any |
|----|--------------------------|------------------|----------------|---------------|--|--|--|-----------------------|---------------------------|------------|----------------|
| | | | | | | Date | BPS | Method of recruitment | BPS | Date | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 1 | Mr. Sardar-Ul-Mulk | M.Sc (Hons) | Malakand | 01.01.1966 | 07.09.1993 | 07.09.1993 | 17 | Direct | 18 (personally up-graded) | 13.09.2011 | |
| 2 | Mr. Akhtar Munir Umerzai | M.Sc (Agri) | Charsadda | 01.04.1961 | 09.09.1993 | 09.09.1993 | 17 | -do- | 18 (personally up-graded) | 13.09.2011 | |
| 3 | Mr. Riaz Ahmad | M.Sc (Hon: Agri) | Swabi | 06.05.1966 | 07.09.1993 | 07.09.1993 | 17 | -do- | 18 (personally up-graded) | 13.09.2011 | |
| 4 | Mr. Sajid Gul | M.S(Agri) | Dir Lower | 09.05.1965 | 05.09.1993 | 05.09.1993 | 17 | -do- | 18 (personally up-graded) | 13.09.2011 | |
| 5 | Mr. Said Rehman | M.A (P.S) | Mohmand Agency | 25.06.1965 | 13.09.1993 | 13.09.1993 | 17 | -do- | 18 (personally up-graded) | 13.09.2011 | |
| 6 | Mr. Muhammad Jehangir | M.Sc | Peshawar | 17.09.1965 | 25.05.1993 | 25.05.1993 | BS-16 (P.O) Promoted to BS-17 on 26.12.1996 | Promotee | 18 (personally up-graded) | 13.09.2011 | |

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| | | | | | | | | | | | |
|----|--------------------|-------------------|-----------|------------|--------------------------|------------|---|------|---------------------------|-----------------------|---|
| 7 | Qazi Noor-Ul-Wahab | M.Sc | Nowshera | 16.03.1966 | 26.05.1993 | 26.05.1993 | BS-16 (P.O) Promoted to BS-17 on 26.12.1996 | -do- | 18 (personally up-graded) | 13.09.2011 | |
| 8 | Mr. Sheraz Ahmad | M.A (Pl. Science) | Swabi | 15.09.1960 | 22.11.1988 | 22.11.1988 | 16 | -do- | 17 | 16.05.2013 | Seniority position maintained intact in light of Para-7 of the S&GAD Circular letter No. SOR-I (S&GAD)I-29/75, dated 13.04.1987 |
| 9 | Mr. Abdul Rashid | M.A | Haripur | 01.01.1961 | 22.11.1988 | 22.11.1988 | 16 | -do- | 17 | 27.08.2012 | |
| 10 | Mr. Fazlullah | M.A (Sociology) | Swabi | 08-10-1962 | 22.11.1988 | 22.11.1988 | 16 | -do- | 17 | 16-05-2013 | Seniority position maintained intact in light of Para-7 of the S&GAD Circular letter No. SOR-I(S&GAD)I-29/75, dated 13.04.1987 |
| 11 | Mr. Shibli Khan | M.Sc (Hon; Agri) | Swabi | 01.05.1965 | 22.11.1988 | 22.11.1988 | 16 | -do- | 17 | 16.05.2013 | -do- |
| 12 | Mr. Asadullah | B.A | Charsadda | 28.09.1966 | 28.02.1990 Supervisor | 28.02.1990 | BS-9 | -do- | 17 | 27.08.2012 | |

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| | | | | | | | | | | | |
|----|----------------------|----------------|------------|------------|---|--|----|----------|-----|---------------------------------|--|
| 13 | Mr. Shams-Ul-Arifeen | BS (Hon's) | Chitral | 30.03.1991 | 13.11.2015 | 13.11.2015 | 17 | --- | --- | --- | |
| 14 | Mr. Ali Asmat | BS (Tel: Engg) | Bannu | 02.09.1987 | -do- | -do- | 17 | --- | --- | --- | |
| 15 | Mr. Nisar Ahmad | M.B.A | Swat | 09.03.1985 | -do- | -do- | 17 | --- | --- | --- | |
| 16 | Mr. Kashif-Ur-Rehman | BSc. (Hons) | Bannu | 28.03.1987 | -do- | -do- | 17 | --- | --- | --- | |
| 17 | Mr. Sajid Javed | MBA | Peshawar | 01.08.1988 | -do- | -do- | 17 | --- | --- | --- | Joined Intelligence Bureau service. Lien retained for a period of 02-years w.e.f 15.05.2017 as per rules |
| 18 | Mr. Zeeshan Ali Shah | M.A (Pl.Sc) | Bannu | 21.03.1990 | -do- | -do- | 17 | --- | --- | --- | |
| 19 | Mr. Muhammad Haroon | B.A | Abbottabad | 18-02-1964 | 01-07-1990 (Supervisor B-9) 30-05-2012 (PO) | --- | 16 | Promotee | 17 | 30.12.2015 (Assistant Director) | |
| 20 | Mr. Muhammad Nacem | B.A | Tank | 15-08-1960 | 19-03-1986 (Teacher in Education Deptt) | 24-11-1990 (Supervisor BS-9) 30-05-2012 (Progress Officer) | 16 | Promotee | 17 | 30.12.2015 (Assistant Director) | |
| 21 | Mr. Mosam Khan | M.A | Tank | 01-01-1964 | 25-10-1985 (Teacher in Education Deptt) | 25-12-1990 (Supervisor B-9) 30-05-2012 (P.O) | 16 | Promotee | 17 | 30.12.2015 (Assistant Director) | |



SECTION OFFICER (ESTABLISHMENT)
Local Govt. Elections & Rural Development Department KP

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| | | | | | | | | | | |
|----|--------------------|-----|------------|------------|--|---|----|----------|----|------------------------------------|
| 22 | Mr. Muhammad Aleem | B.A | Tank | 30-04-1968 | 19-01-1993 (Supervisor BS-9) 30-05-2012 (P O) | --- | 16 | Promotee | 17 | 30.12.2015 (Assistant Director) |
| 23 | Mr. Dilawar Khan | M.A | SW. Agency | 20-07-1966 | 10-03-1990 (Teacher in Education Deptt) | 12-06-1993 (Supervisor B-9) 30-05-2012 (Progress Officer) | 16 | Promotee | 17 | 30.12.2015 (Assistant Director) |
| 24 | Mr. Abid Zaman | B.A | Kohat | 11-04-1969 | --do-- | --- | 16 | Promotee | 17 | 30.12.2015 (Assistant Director) |


SECRETARY TO GOVERNMENT OF KP
LOCAL GOVT. ELECTIONS & RURAL
DEVELOPMENT DEPARTMENT

Dated Peshawar, the 19th March, 2019

No. SO(LG-I)4-118/ADS/S.LIST/2017/VOL-II

Copy forwarded to:-

1. The Registrar, Khyber Pakhtunkhwa Services Tribunal Peshawar.
2. The Director General, LG&RDD Khyber Pakhtunkhwa, Peshawar.
3. The Director, LG&RDD Merged Area Secretariat, Warsak Road Peshawar.
4. All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa
5. The Manager Government Printing Press Peshawar. He is requested to provide 100 printed copies of the seniority list.
6. The PS to Secretary LG,E&RD Department Peshawar.
7. The personal file of the Officers concerned.
8. The Office order file.


(HAJI MUHAMMAD)
SECTION OFFICER (ESTAB)
Phone # 091-9213224

To

The Worthy Chief Secretary,
Government of Khyber Pakhtunkhwa
Civil Secretariat Peshawar.

77 (2 (11))
Amir & Co

Subject: APPEAL/REPRESENTATION AGAINST THE FINAL SENIORITY LIST OF ASSISTANT DIRECTORS (BPS-17) LG&RDD AS STOOD ON 28-02-2019 CIRCULATED VIDE NOTIFICATION NO.SO(LG-J)4-118/ADS/S.LIST/2017/VOL.II- DATED 19TH MARCH 2019.

Respected Sir,

With due respect I have the honour to submit this Departmental representation / review for your kind consideration and favourable action on the following facts and grounds.

1. That appellants and others were initially appointed as Progress Officers (BPS-I6) in the then Khyber Pakhtunkhwa Local Government & Rural Development Department (LG&RDD) way back in the year 1988 on contract basis. Subsequently, they alongwith others approached the Hon'ble Peshawar High Court Peshawar for regularization of their services but could not succeed and meanwhile their services were terminated. Their request before this Hon'ble Court also failed and they were directed to approach the Provincial Service Tribunal. On their approach to the Service Tribunal their appeals were dismissed and consequently they again approached this Hon'ble Court and finally their appeals were allowed vide Judgment dated 25.08.2005 by reinstating the petitioners into service with all back benefits.
2. That the judgment of this Hon'ble Court was implemented by the Department by reinstating the petitioners and others in service with all back benefits and regularized them with effect from the date of their initial appointment vide notification dated 10.11.2005 and 16.12.2005.
3. That since the appellants were also entitled for promotion to the higher grade as a consequence of the Judgment of this Hon'ble Court which was not being fully implemented in letter and spirit, therefore, petitioners and others filed Writ Petition No.793/2007 in the Hon'ble Peshawar High Court Peshawar which was finally disposed of vide order dated 18.10.2011 (Annexure-A) with direction to the Department to decide the matter in accordance with law as per the observation of the Hon'ble Court given in the order viz:

"It is not clear from the available record that when the petitioners became eligible for being promoted to the next higher scale and what were the rules applicable thereto and what was the ratio of vacancies to be filled through the promotion and what was the ratio of the vacancies to be filled by initial recruitment. All these questions are to be decided by the Department in the first instance, we, therefore, would not embark upon such exercise while hearing the petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. We, therefore, while disposing of this writ petition direct the office to send it to the departmental authority to decide it in accordance with law as hinted to above WITHIN TWO MONTHS. This writ petition, thus, stands disposed of."

Thus the Hon'ble Court directed for determining as to:-

i. When the petitioners became eligible to the next higher grade?

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ii. What were the Rules applicable thereto (service rules)?

iii. What was the ratio of vacancies to be filled by initial recruitment/promotion?

4. That in compliance to above directions of the honourable Peshawar High Court the respondents including LGRDD were required to have carried out an exercise in line with above parameters / hints as out lined by the honourable Court, the Department ignored and sought the opinion of Secretary Establishment and Finance Department Khyber Pakhtunkhwa which was / is an utter disregard of Apex Court as well as Peshawar High Court.
5. That the Department, in the light of the Judgment *ibid*, took up the case of the petitioners and others and asked for the advice of the Establishment Department and Finance Department as would be evident from the letter dated 26.11.2011 wherein in Para-5 it has been admitted that "According to service rules notified on 01.12.1991, the length of service for promotion of Progress Officer (BPS-16) to the post of Assistant Director (BPS-17) LG&RDD was 03 years. The initial date of appointment of the petitioners was 22.11.1988 and thus they have completed the required length of service on 22.11.1991 and became eligible for promotion to the post of AD (BPS-17) LG&RDD at that time but they could not be promoted as their status was contract.
6. That the Establishment Department vide letter dated 20.12.2011 advised that in terms of the Employees on Contract Basis (Regulation of services) Act, 1989 read with the Judgment of the Apex Court announced on 25.08.2005, the services of the appellant stood regularized with effect from the date of their contractual appointments. The Department is therefore, required to determine their seniority viz-a-viz those appointed on regular basis in the defunct Directorate and consider their promotion in the light of the service rules of their posts subject to the availability of vacant positions in the cadre /service group.
Thus the advice of the Establishment Department, Govt. of Khyber Pakhtunkhwa *ibid* was also in line with the decision of the Hon'ble High Court, Peshawar dated 18.10.2011 as explained in para-3 *ibid* wherein the Department was given direction that since the petitioners have been regularized from initial date of appointment i.e. 22.11.1988, they were to be treated at par with others who were similarly placed in the defunct Directorate General of LG&RDD and consider their promotion subject to the availability of vacant positions in the cadre/service group.
7. That as per Seniority List circulated vide letter dated 13.02.1993 the total sanctioned posts of Assistant Directors (BPS-17) as stood on 31.12.1992 were 34 and as per the Service Rules notified on 01.12.1991, the ratio of promotion and direct induction was 30%:70% out of which 24 posts fell in the quota of initial recruitment while 10 posts fell in the promotion quota. At the total 5 Progress Officers (BPS-16) were promoted vide order dated 03.08.1992 against the available share of 10 posts and thus promotion quota

was short of 5 posts against which the petitioners could have been promoted had they been in regular service on the basis of their entitlement as declared by the Hon'ble Court subsequently along with consequential back benefits.

- 8. That inspite of the clear position as explained above still the desired promotion was not granted to the petitioners, therefore, COC No.87-P/2012 was filed before the Hon'ble Peshawar High Court, Peshawar which was disposed of vide order dated 16.08.2012 in view of the statement of the learned Additional Advocate General that the promotion case of the petitioners could not be processed as they had not provided ACRs for consideration of the Departmental Promotion Committee, however, it was also observed that the petitioners and others might invoke their remedy before an appropriate legal forum if so advised.
- 9. That thereafter, appellants and others were promoted to the post of Assistant Director (BPS-17) but with immediate effect instead of due dates vide orders dated 16.05.2013. The appellants and their other colleagues challenged the order ibid, to the extent of its immediate operation through Departmental Appeals which were duly processed and culminated in approval by the competent authority of seniority position vide Statement showing the date wise appointment and promotion of supervisors, progress officers to the post of Assistant Director LG&RDD wherein the appellants and others were shown to have been appointed w.e.f. 22.11.1988 and find their places at serial No. 7,9 and 10 are as under.

Statement Showing the date wise Appointment and Promotion of Supervisor, Progress officers to the post of Assistant Directors, LG&RDD

| S.No | Name of Progress Officer | Method of Recruitment whether by promotion or by initial quota | Date of Apptt./ Promotion/ Induction as progress Officer (BS-16) | Date of Promotion as Asstt: Director (BS-17) |
|------|--------------------------|--|--|--|
| 1 | Abdul Majeed Zakoori | B-9 (Promotee) | 18-12-1985 | 03-08-1992 |
| 2 | Khadim Muhammad Hussain | -do- | 18-12-1985 | 03-08-1992 |
| 3 | Mashallah Khan | -do- | --- | 03-08-1992 |
| 4 | Abdul Ghaffar | -do- | --- | 03-08-1992 |
| 5 | Muhammad Latif | -do- | --- | 03-08-1992 |
| 6 | Shad Muhammad | Direct | 22-11-1988 | 27-08-2012 |
| 7 | Sheraz Ahmad | Direct | 22-11-1988 | 16-05-2013 |
| 8 | Abdul Rashid | Direct | 22-11-1988 | 27-08-2012 |
| 9 | Fazlullah | Direct | 22-11-1988 | 16-05-2013 |
| 10 | Shibli Khan | Direct | 22-11-1988 | 16-05-2013 |
| 11 | Hamid Ullah | B-9(Promotee) | 03-08-1992 | 01-11-1995 |
| 12 | Aziz-ur-Rehman | -do- | 03-08-1992 | 01-11-1995 |
| 13 | Muhammad Farid | -do- | 03-08-1992 | 01-11-1995 |
| 14 | Akhtar Munir | -do- | 03-08-1992 | 01-11-1995 |
| 15 | Muhamamd Jehangir | Direct | 26-05-1993 | 26-12-1996 |
| 16 | Qazi Noorul Wahab | -do- | 26-05-1993 | 26-12-1996 |
| 17 | Ghulam Qadir | B-9(Promotee) | 08-10-1996 | 26-06-2000 |
| 18 | Faramoz Khan | -do- | 08-10-1996 | 26-06-2000 |
| 19 | Alam Zeb | -do- | 08-10-1996 | 26-06-2000 |
| 20 | Noor Elahi | -do- | 08-10-1996 | 26-06-2000 |

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| | | | | |
|----|-------------------|------|------------|------------|
| 21 | Abdul Qadir | -do- | 08-10-1996 | 26-06-2000 |
| 22 | Muhammad Aslam | -do- | 08-10-1996 | 26-06-2000 |
| 23 | Maqsood-ur-Rehman | -do- | 08-10-1996 | 26-06-2000 |
| 24 | Qazi Anwar Gul | -do- | 08-10-1996 | 26-06-2000 |

Note:- The officers mentioned at Serial No. 6 to 10 were appointed on contract basis on 22-11-1988. Their services have been regularized from the date of their initial appointment i.e. 22-11-1988 in implementation of Judgment dated 25-08-2005 of the Supreme Court of Pakistan.

SD
Section officer
Local Govt, Election &
Rural Development Deptt

10. That the perusal of the above seniority list of promote Assistant Directors reveal that the petitioners find their places at S.No.7,9 and 10 as a result of regaining seniority with Promote Assistant Directors from S.No.1 to 5 whose date of promotions are 3-8-1992 whereas the petitioners date of promotions are 16-05-2013 is incorrect and was required to have been shown as 03-08-1992 in compliance to the decision of the Apex Court as the petitioners had been regularized from the date of initial appointment (22-11-1988) and as admitted by the Department as stated in the letter dated 26-11-2011 as explained in preceding para-5 of this appeal/representation. Furthermore, it is important to mention that all junior progress Officers as appeared from S.No.11 to 24 were promoted to the posts of AD, LG (B-17) on completion of 3-years 2-months, 3-years 8-months while the petitioners date of promotions was made after 24-years 8-months which is not only violation of the Peshawar High Court in WP#793/2007 but also to the honourable Court Apex whereby the petitioners were reinstated with all back benefits and thus the petitioners were discriminated in application of service rules
11. That in the light of the approval of the seniority of promote Assistant Directors as mentioned above, further clarification of the seniority of the petitioners and others the Department called for the advice of the Establishment Department vide letter dated 07.11.2013 upon which the Establishment Department gave its opinion vide letter dated 10.01.2014 whereafter a Tentative Seniority List was circulated vide letter dated 14.03.2014, showing the seniority position of the petitioners as approved by the competent authority upon which petitioners and others submitted the observations but meanwhile Respondent No.1 and his other colleagues who became juniors as a result of regaining seniority of the petitioners and others also submitted objections upon the seniority of petitioners and others which was allowed by the Worthy Secretary, Local Government vide order dated 22.05.2014 thereby again the petitioners and others were wrongly held to be juniors and thus the earlier promotion with immediate effect of the petitioners was restored by setting aside the order of the appellate authority i.e. the Chief Secretary and immediately the Final Seniority List was issued vide letter dated 28.05.2014.

12. That being aggrieved by the order dated 22.05.2014 of the Secretary, Local Government/Respondent No.4 and the Final Seniority List dated 28.05.2014 issued in consequence thereof, petitioners preferred Departmental Representations there against in the first instance and then Service Appeals before the Khyber Pakhtunkhwa Service Tribunal. During the pendency of the Service Appeal again vide letter dated 27.10.2015, the seniority positions of the Petitioners and others were restored by issuing Tentative Seniority List correctly reflecting the positions of the Petitioners viz-a-viz Respondent No.1 and others, however, the dates of promotion of Petitioners were again shown as 16.05.2013, instead of 22.11.1991.
13. That the impugned final Seniority List dated 22.08.2017 was issued (Annexure-B) wherein the Petitioners were correctly shown seniors to Respondent No.1 and others. But again the date of promotion of the petitioners was shown as 16-05-2013 instead of 22/11/1991. The Seniority List was challenged by Respondent No.1 and his other colleagues through a joint departmental Representation dated 14.09.2017 which were dismissed vide appellate order dated 13.10.2017. Against the impugned Seniority List as well as appellate order dated 13.10.2017, only Respondent No.1 filed Service Appeal No.1182/2017 before the Khyber Pakhtunkhwa Service Tribunal wherein the Petitioners were arrayed as private Respondents. It is also to be added that the Petitioners have also filed Service Appeals No.184/2018, No.185/2018, No.186/2018 & No.188/2018 before the same Tribunal for the grant of back benefits/antedation of promotion as Assistant Director (BPS-17) w.e.f. 22.11.1991.
14. That the appeal No.1182 / 2017 of Akhtar Munir versus Chief Secretary wherein we were as private Respondent finally came for hearing before the Khyber Pakhtunkhwa Service Tribunal on 03.01.2019 and the same was allowed vide impugned Judgment dated 03.01.2019 (Annexure-C) concluding para No.8 of the said judgment is reproduced as under
"in view of the above discussion the appeal is accepted with direction to the respondent Department to place the appellant senior to the private respondents No.5 to 8. Parties are left to bear their own cost. File be consigned to the record room".
15. It is important to mention and note worthy that in implementation of decision of KP Service Tribunal appeal No.1182/2017 announced on 3-1-2019 meant only for the petitioners namely Akhtar Munir versus CS KP, others including the appellants as private respondents the respondent Department i.e. Worthy Secretary LGRDD KP Department(LGRDD) finalized the seniority of Assistant Directors BPS-17 through Notification No.SO(LG-1) -118/ADS/S.List/2017/Vol-II dated 19-03-2019 (Annexure-D) wherein the non petitioners at S.No.1,3,4,5,6 and 7 were also given seniority over the appellant in violation of the honourable Service Tribunal. It is also important to mention that Mr.Sardar Mulk appearing at S.No.1 of the instant seniority has filed an appeal in the Service Tribunal appeal No.1258/2018 is pending adjudication but without waiting for the honorable Court decision the respondent Department has given him seniority in violation of Law, Rules and Apex Court decision.

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It is humbly submitted that Apex Court decision has been announced on 25-08-2005 with all back benefits and long 14-years have been elapsed but we have been kept deprived from our valuable rights under the judgment of the honourable Apex Court and now are at the verge of retirement but the LGRDD did not consider the our rights of back benefits which the Department of LGRDD notified on 10-11-2005 and 16-12-2005 whereby our services were regularized from the initial date of appointment (22-11-1988) and the appellants were/are to be treated at par with others similarly place. The service Tribunal in its judgment and the parent Department LGRDD did ignored the effects of the above mentioned Notifications which had been issued by the Department itself in implementation of the Honourable Apex Court judgment dated 25-08-2005, had the Department complied with the Apex Court decision and Peshawar High Court directions in WP # 793/ 2007 whereby the Department was directed to determined the date of promotion as per service rules applicable there to, and ratio of vacancies to be filled to, which the respondents never complied and deprived the appellants from their valuable rights of back benefit including retrospective promotion w.e.f 22-11-1991 as per service rules given by the Honourable Court, resultanty the impugned decision was only on the basis of the dates of promotion which is incorrect and the Department of LGRDD was required to have corrected the date of promotion as 22-11-1991 instead of immediate effect i.e. 16-5-2013 to act in aid of decision of august Court in implementation of the Supreme Court of Pakistan redressing the appellants date of promotion.

In view of the above submissions it is, therefore, humbly prayed that on acceptance of this Departmental representation the FINAL SENIORITY LIST OF ASSISTANT DIRECTORS (BPS-17) LG&RDD AS STOOD ON 28-02-2019 CIRCULATED VIDE NOTIFICATION NO.SO(LG-D4-118/ ADS/S.LIST/2017/ VOL-II- DATED 19TH MARCH 2019. as Annexure-C may graciously be set aside and also humbly request to restore the seniority of Assistant Directors LGRDD BPS-17 circulated vide Notification No.SO(LG-1)4-118/ADS/S.List/2017/VOL-II/ 1945-65 dated 22.08.2017 (Annexure-B) by making correction therein the date of promotion w.e.f. due date 22-11-1991 retrospectively with all consequential back benefits please.

Sh. S. Ahmad
16/04/2019.

(SHERAZ AHMAD)
Assistant Director, LG/RDD,
Tribal District Mohmand.

83 Annex DD

Annex E

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

| Date of Order 1 | Order or other proceedings with signature of Judge 2 |
|--------------------|---|
| 2-3-2011 | <p><u>W.P.No.793/2007</u></p> <p><u>Present:</u> Petitioners in person. Mr.Zahid Yousaf Qureshi, AAG, for the respondents:</p> <p>Argued at length. The controversy that surfaced was that when the petitioners were regularized from the date of their initial appointment, they were to be treated at par with others who were similarly placed. The learned AAG wants time to see the effect of this Notification. Adjourn to 19.4.2011.</p> |

Office
11/4/11

sd/- Ejaz Afzal Khan - G
sd/- Mazhar Ahsan Khan - J

CERTIFIED TO BE TRUE COPY.

Postmaster General
Authorized Under Section 13 Acts Order

12-4-11

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Date Given out 12-4-11

Date of Delivery in Court 12-4-11

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