

Appeal No. 422/2012.

Mr. Sultan Mehmood Khattak.

4.19-4-2012.

Appellant deposited
Process fee & Security
of Rs. 240/-
attached with bill.

The learned Counsel for the appellant present and contended that the appellant joined the Provincial Government (Secretariat Group) and with the passage of time the appellant was promoted to BPS-20 on regular basis vide order dated 23.4.2007. The appellant is at Sl. No.5 of the seniority list where as the Private Respondent is at Sl.No.8 of the seniority list of BPS-20 officers. The appellant has good service record and senior to the private respondent but despite of that the appellant has not been considered for promotion and the private respondent has been promoted in violation of service rights of the appellant. Point raised needs consideration. The appeal is admitted to full hearing. The appellant is directed to deposit the security and process fee within 10 days to come up for reply

30-5-2012.

Member

19-4-2012.

The case is entrusted to the learned Bench for further proceedings.

17 (Sana) appellant

Chairman

30.5.2012

Clerk to counsel for the appellant, Mr. Sherafgan Khattak, AAG Noorullah Khan, S.O (Litigation) for respondents No. 1 to 4, Mr. Waseem Akhtar, Superintendent for respondent No. 5 and private respondent No. 6 in person present. Respondents need time for submission of written reply. To come up for written reply on 5.7.2012.

MEMBER

MEMBER

5.7.2012

Counsel for the appellant, and Mr. Sheragan Khattak, AAG with Sultan Shah, Assistant for respondents No. 1 to 4 present and reply filed. Coy handed over to counsel for the appellant. Fresh notices be issued to private respondent 6 through registered post and receipt may be annexed with the file. To come up for written reply of respondents No. 5 and 6 on 6.8.2012.

MEMBER

MEMBER

6.8.2012

Counsel for the appellant and Mr. Sherafgan Khattak, AAG with Noorullah, S.O (Litigation) for respondents No. 1, 2, 3 & 4 present, who already filed written reply. Written reply received on behalf of private respondent No. 6. Copy handed over to counsel for the appellant. Respondent No. 5 may file written reply in the meantime. Otherwise he will automatically be placed ex-parte. To come up for arguments on 19.9.2012. Rejoinder, if any, in the meantime.

MEMBER

MEMBER

19.9.2012

Clerk to counsel and Mr. Sherafgan Khattak, AAG with Noorullah, S.O (Litigation) for official respondents No. 1 to 4 present. Written reply of respondent No. 5 not received. The learned AAG stated that there is no need of written reply of respondent No.5. Written reply of private respondent No. 6 already received. To come up for arguments on 8.10.2012. Rejoinder, if any in the meantime.

MEMBER

MEMBER

422/2012

8.10.2012

Counsel for the appellant and Mr. Sherafgan Khattak, AAG with Noorullah Khan, S.O (Litigation) for the official respondents No. 1 to 4 and private respondent No. 6 in person present. Counsel for the appellant needs time to file rejoinder. Request is accepted. To come up for rejoinder on 22.10.2012.

MEMBER

MEMBER

22.10.2012

Counsel for the appellant and Mr. Sherafgan Khattak, AAG with Sultan Shah, Assistant for the official respondents present. Rejoinder received and placed on file. Copy handed over to the learned AAG. None is available on behalf of private respondent No. 6. Copy of rejoinder to be provided to her. To come up for arguments on 5.11.2012.

MEMBER

MEMBER

5.11.2012

Counsel for the appellant and Mr. Sherafgan Khattak, AAG with Abdur Rashid, Superintendent for the official respondents present. Fresh notice be issued to private respondent No. 6 through registered post. To come up for arguments on 30.11.2012.

MEMBER

MEMBER

30.11.2012.

Counsel for the appellant, and Mr. Arshad Alam, AGP with Abdur Rashid, Superintendent for official respondents present. Fresh notice was issued to private respondent No. 6 through registered post but none appeared on her behalf. Bench is incomplete, because Syed Manzoor Ali Shah, learned Member of the Bench is busy in Primarcy Bench and Mr. Fareedullah Khan, learned Member is on leave. Case is adjourned to 19.12.2012 for arguments.


MEMBER

19.12.2012.

Counsel for the appellant and Mr. Sherafgan Khattak, AAG with Noorullah, S.O for the official respondents present. Private respondent No. 6 has already filed written reply yet she must be present in person or through counsel in the proceedings but remained absent in the last three date of hearing. Fresh notice be issued to her through registered post on her available address. Representative of the official respondents is directed to produce working papers and minutes etc of DPC meeting pertaining to the instant case. To come up for arguments 15.1.2013.


MEMBER


MEMBER

15.1.2013.

Counsel for the appellant, and AAG with Noorullah, S.O for official respondents present. The Bench is incomplete to-day. Case is adjourned to 7.2.2013 for arguments. Representative of the respondents is directed to produce departmental record as per previous order sheet on the date fixed. Written reply of private respondent already received but notice be issued to her through registered post for arguments either herself or through counsel on the date fixed.


MEMBER

422/2012

7.02.2013.

Counsel for the appellant, AAG with Abdur Rashid Superintendent for official respondents present. None is available on behalf of private respondent No. 6. Representative of official respondents is directed to provide fresh address of respondent No.6 and fresh notice be issued to her through registered post. To come up for arguments on 1.3.2013!

MEMBER

01.03.2013.

Counsel for the appellant and AAG with Sultan Shah, Assistant for the official respondents present. Mr. Fareedullah Khan, learned Member of the Bench is on leave, therefore, case is adjourned to 20.3.2013 for arguments.

MEMBER

20.3.2013

Clerk of counsel for the appellant and AAG for the respondents present. Arguments could not be heard due to General Strike of the Bar. To come up for arguments on 16.04.2013.

MEMBER

16.04.2013

Counsel for the appellant, Mr. Arshad Alam, GP with Rasheed Superintendent for official respondents present. None is available on behalf of private respondent No. 6, however she has already filed written reply on 19.9.2012. The Bench is incomplete due to official tour of Syed Manzoor Ali Shah, Member to Abbottabad and Mr. Fareedullah, Member also busy in primary Bench. Therefore, case is adjourned to 3.5.2013 for arguments.

MEMBER

03.05.2013

Counsel for the appellant and Abdur Rashid, Supdt for official respondents with Mr. Muhammad Jan, GP present. None is available for respondent No.6. Fresh notice be issued to her on the address available on her written reply in case she failed to herself or through counsel the case will be argued on the next date in their absence. To come up for arguments on 03.06.2013.

MEMBER

MEMBER

3.06.2013.

Counsel for the appellant and Mr. Usman Ghani, SGP with Abdur Rasheed Supdt. for the official respondents and private respondent No. 6 in present. In pursuance of promulgation of Khyber Pakhtunkhwa Service Tribunal (Amendment) Ordinance 2013, the Tribunal is incomplete. To come up for the same on 28.6.2013.

READER

28.6.2013

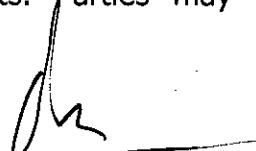
Counsel for the appellant and Mr. Muhammad Jan, GP with Abdur Rashid, Supdt. for the official respondents present. In pursuance of promulgation of Khyber Pakhtunkhwa Service Tribunal (Amendment) Ordinance 2013, the Tribunal is incomplete. To come up for the same on 22.8.2013.

READER

422/12

21.8.2013

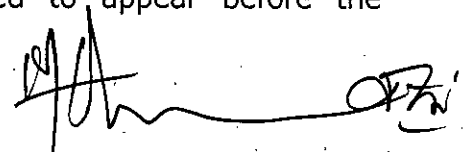
Since 22nd August 2013 has been declared as local holiday on account of by-election, therefore, case is adjourned to 23.8.2013 for arguments. Parties may be informed accordingly.



MEMBER

23.8.2013

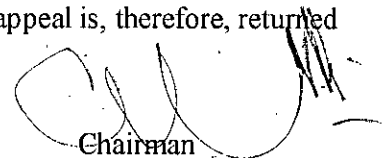
Appellant with counsel and Mr. Muhammad Jan, GP for the respondents present. The appeal in hand has been filed by one of the Members of this Tribunal who is also in the Bench, therefore, in the interest of justice, the appeal in hand is submitted to the learned Chairman for fixing the same before another Bench. Parties are directed to appear before the learned Chairman to-day.



MEMBER

23.8.2013

Appeal received with order sheet of today by the learned Member of Bench-II. Since the undersigned as Chairman of the KPK Service Tribunal is also a respondent (Respondent No.5) in the appeal, and learned Member (Mr.Sultan Mehmood Khattak) is appellant in the case, thus leaving only Mr.Muhammad Aamir Nazir, as the lone Member in the Tribunal, who, legally, as such, cannot deal with the case at the final stage of arguments, the appeal be kept pending at the moment till improvement of situation and arrival of more members to deal with the case. The appeal is, therefore, returned herewith for the needful.

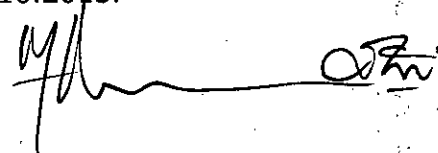


Chairman

11.10.2013.

Case file received from the court of learned Chairman. Counsel for the appellant present and submitted an application for deletion of name of respondent No. 5/Chairman Service Tribunal from the panel of respondents. Learned counsel for the appellant argued that since the Tribunal consists of only two Members and a Chairman due to which it would not be possible to hear the appeal till the amendment of the Act. Therefore, on this ground respondent No. 5/Chairman be deleted from the panel of respondents to make hearing and disposal of the case at the earliest. The learned Government Pleader has got no objection on acceptance of the application.

Since the respondents have got no objection upon acceptance of application, hence the instant application is hereby accepted and the name of respondent No. 5/Chairman Service Tribunal is deleted from the panel of respondents. Moharrir of the court is directed to make entry in this respect. Case file is again submitted to the learned Chairman for passing an appropriate order for fixation of this case. Parties are directed to appear before the learned Chairman on 25.10.2013.



MEMBER

27.3.2014

Notices be issued to the parties for arguments on 23.6.2014.


Chairman

23.6.2014

Counsel for the appellant and Mr. Rashid Khan, S.O for respondents No:1 to 4 with AAG for official respondents present. Representative of the official respondents informed that private respondent No.6, who is presently Joint Secretary Establishment Division, Islamabad, has contacted him on telephone and requested for adjournment on the ground of security situation in Islamabad. To come up for arguments alongwith connected appeal on 25.11.2014.


Chairman

25.11.2014

No one is present on behalf of the appellant. Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for arguments alongwith connected appeal on 23.02.2015.


Reader

23.2.2015

Counsel for the appellant and Mr. Muhammad Jan, GP with Sultan Shah, Assistant for the respondents present. The learned Judicial Member is on official tour to D.I.Khan, therefore, case is adjourned to 29.5.2015 for arguments.


MEMBER

29.05.2015

Counsel for the appellant and Mr. Muhammad Jan, GP with Sultan Shah, Assistant for the respondents present. Counsel for the appellant requested for adjournment. Therefore, case is adjourned to 14.09.2015 for arguments.


MEMBER


MEMBER

14.09.2015

Counsel for the appellant and Mr. Sultan Shah, Assistant alongwith Addl: AG for respondents present. The learned Member (Judicial) is on leave therefore, case is adjourned to 14.09.2015 for arguments.

14.09.2015


Counsel for the appellant and Mr. Sultan Shah, Assistant alongwith Addl: A.G for respondents present. Learned Addl: A.G requested for adjournment. Adjourned to 18-12-15 for arguments.



MEMBER


MEMBER

18.12.2015

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 15-3-2016


Member


Member

15.03.2016

Junior to counsel for the appellant and Mr. Ziaullah, GP for official respondents No. 1 to 5 present. Senior counsel for the appellant was stated busy before the Hon'ble Peshawar High Court and requested for adjournment. Adjourned for arguments to 10-6-16 before D.B.


MEMBER


MEMBER

10.06.2016

Clerk to counsel for the appellant and Addl: AG for official respondents No. 1 to 5 present. Arguments could not be heard due to non-availability of learned counsel for the appellant as well as the learned Member (Judicial) Mr. Muhammad Aamir Nazir is on leave, therefore, Bench is incomplete. To come up for arguments on 25.10.2016 before D.B.


MEMBER

25.10.2016

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Clerk to counsel for the appellant requested for adjournment.. To come up for arguments on 23.02.2017 before D.B.


Member


Chairman

23.02.2017

Counsel for the appellant and Asst: AG for official respondents present. Private respondent No.6 not in attendance. Notice be issued to the private respondent No.6. To come up for arguments on 08.06.2017 before D.B.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

08.06.2017

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 11.08.2017 before D.B.

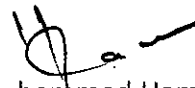

(Muhammad Amin Khan Kundi)
Member

(Gul Zeb Khan)
Member

11.08.2017

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 25.09.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member (J)

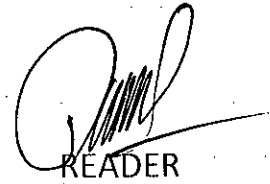

(Muhammad Hamid Mughal)
Member (J)

25.09.2017

Counsel for the appellant and Addl:AG for the respondents present. Since learned Member (Mr. Ahmad Hassan) is on leave, therefore, arguments could not be heard. To come up for arguments on 23.11.2017 before D.B.


Chairman

30.04.2018 None present on behalf of appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General present. The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore the case is adjourned. To come up for the same on 21.06.2018



READER

21.06.2018 Counsel for the appellant and Adll: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 23.07.2018 before D.B.



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member

23.07.2018 Appellant absent. Learned counsel for the appellant is also absent. However, clerk of the counsel for appellant present and requested for adjournment. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Adjourned. To come up for arguments on 06.09.2018 before D.B.

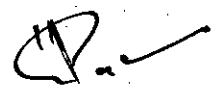


Member

06.09.2018 Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 05.10.2018 before D.B.



(Muhammad Amin Kundi)
Member

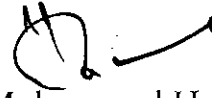


(Muhammad Hamid Mughal)
Member

05.10.2018

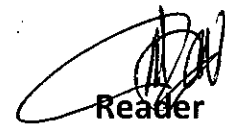
Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for appellant seeks adjournment. Adjourned. To come up for arguments on 09.11.2018 before D.B.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

09.11.2018


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 05.12.2018.


Reader

05.12.2018

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 09.01.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

09.01.2019


Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Junior to counsel for the appellant requested for adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 31.01.2019 before D.B.



Member


Member

31.01.2019

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 21.02.2019 before D.B.


Member



Member

21.02.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present.

Learned counsel for the appellant states that in para wise comments submitted by respondents No.1 & 4, it is noted that the appellant was superseded as his efficiency was below the bar required for promotion. However, no documentary evidence of such claim is appended with the respective reply. Learned DDA is therefore, required to ensure the availability of requisite record on the next date of hearing. Adjourned To 21.03.2019 before D.B.



Member


Chairman

21.03.2019

Nemo for appellant. Addl. AG for the respondents present.

Due to second day of the strike on the call of Bar Council, instant matter is adjourned to 15.04.2019 before the D.B.


Member


Chairman

03.05.2019

Counsel for the appellant and Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 12.06.2019 for record and arguments before D.B.


(AHMAD HASSAN)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

12.06.2019

Counsel for the appellant and Mr. Ziaullah, DDA for the respondents present.

It is the contention of learned counsel for appellant that the appellant underwent National Management Course at National Management College Lahore for promotion to BPS-21 and had successfully completed the same. For nomination of such course the qualifying threshold of quantification of PER is 75 which fact negates the defence of respondent No. 4, qua the efficiency of the appellant being below the bar.

In the circumstances we consider it necessary to require respondent No. 3 to cause the production of relevant report pertaining to course at National Management College Lahore undertaken by the appellant.

Adjourned to 09.07.2019 on which date the requisite record shall positively be submitted.


Member


Chairman

09.07.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Naqeeb Ullah Stenographer present. Representative of the respondent department seeks time to furnish record. Adjourn. To come up for record and arguments on 05.09.2019 before D.B.

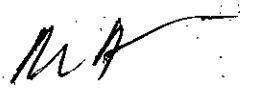

Member


Member

05.09.2019

Junior to counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Naheed Gul Assistant for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 10.10.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

10.10.2019

Counsel for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Naqeebullah, Stenographer for respondents present. Representative of the respondents submitted some additional documents which is placed on record. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 14.11.2019 before D.B.


Member


Member

01.11.2019

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 18.11.2019 for arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

18.11.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 02.01.2020 for arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

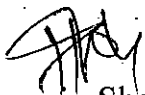
Service Appeal No. 422/2012


02.01.2020 Syed Noman Ali Bukhari, learned counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Naheed Gull, Assistant for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 12.02.2020 for arguments before D.B.


(Hussain Shah)
Member

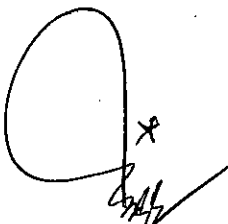

(M. Amin Khan Kundi)
Member

12.02.2020 Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney for the respondents present. Learned counsel for the appellant seek adjournment. Adjourned. To come up for further proceedings/arguments on 17.03.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

17.03.2020 Clerk to counsel for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Sultan Shah, Assistant for respondents present. Due to general strike on the call of Peshawar Bar Council, the instant case is adjourned. To come up for arguments on 30.04.2020 before D.B.


(MAIN MUHAMMAD)
MEMBER


(M.AMIN KHAN KUNDI)
MEMBER

Appeal No. 422/2012

Sultan Mehmood Khattak vs Govt

30-4-2020

Due to COVID19, the case is adjourned to
14/7/2020 for the same as before.


Reader

14.07.2020

Due to COVID-19, the case is adjourned to 04.09.2020
for the same.

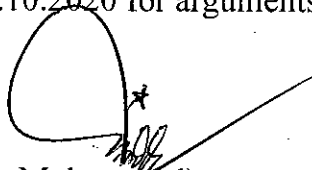
04.09.2020

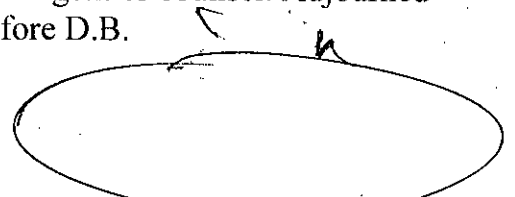

Reader

Learned counsel for the appellant is present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Zar Muhammad, Assistant for respondents present.

At the very outset it was observed that the respondents are being represented by an officer below the rank of BPS-17 whereas the Government standing order on the subject issued from time to time are that an Officer not below the rank of BPS-17 has to represent the department of the Government of the Khyber Pakhtunkhwa, therefore, it is observed with concern that the aforesaid standing order has not been observed in letter and spirit, accordingly, respondents are directed to ensure the availability of his representative not below the rank of Grade-17 so that he could render effective assistance to the Tribunal failure of which would expose the responsible officer to appropriate legal action..

It is also observed that the record in the instant case is also not complete, therefore, official respondents are directed to bring forth all record of PSB pertaining to the appellant as well as private respondent No.6 on the next date of hearing. The record also revealed that private respondent No.6 not represented by anyone today. Notice be also issued to private respondent No.6 for attending the proceedings of the Tribunal herself or through any authorized agent or counsel. Adjourned to 06.10.2020 for arguments before D.B.


(Mian Muhammad)
Member (E)

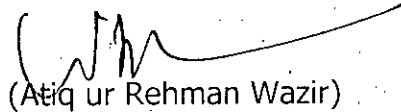

(Muhammad Jamal)
Member(J)

06.10.2020

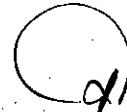
Representative of appellant on behalf of appellant present.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.

Lawyers are on general strike, therefore, the case is adjourned to 23.11.2020 for arguments, before D.B.



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

23.11.2020

Due to non-availability of D.B, the case is adjourned to 03.02.2021 for the same as before.



Reader

03.02.2021

Due to COVID-19, the case is adjourned to 07.04.2021 for the same.



Reader

07.04.2021

Due to demise of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 10/5 /2021 for the same as before.



Reader

10.5.2021

Due to COVID-19, the case is adjourned for the same as 30.8.2021.




30.08.2021

Nemo for the appellant. Mr. Muhammad Adeel Butt,
Additional Advocate General for the respondents present.

Previous date was changed on Reader Note, therefore,
notice for prosecution of the appeal be issued to the appellant as
well as his counsel and to come up for arguments before the D.B
on 25.11.2021.

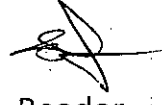
NOTE FOR
Mm
13-9-21


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

25.11.2021

Proper DB is not available, therefore, the case is
adjourned to 28/2/22 for the same ^{as} before D.B.



Reader

28-2-22

Due to retirement of the Hon.ble
Chairman the case is adjourned on

14-6-22




15-4-2022

As per directions of the worthy Chairman the
instant case be refixed on 12-5-2022 instead of
14-6-2022. Notice of prosecution of appeal be
issued to the parties for the date fixed.

12.05.2022

Junior to counsel for the appellant present. Mr. ^{Naseer}
Uddin Shah, Assistant Advocate General for the respondents
present.

Due to general strike of the lawyers the case is adjourned.
To come up for arguments on 19.07.2022 before D.B.



(Fareeha Paul)
Member(E)



Chairman

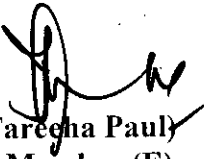
Appeal No. 422/2012

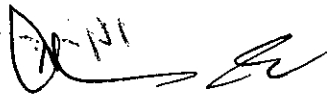
15th July, 2022

1. None present for the appellant. Mr. Kabirullah Khattak, Addl: AG for respondents present.

2. Called several times till last hours of the court but nobody turned up on behalf of the appellant. In view of the above, the instant service appeal is dismissed in default. Consign.

3. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 15th day of July, 2022.


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

D

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 422 /2012

Mr. Sultan Mehmood Khattak

V/S

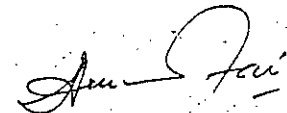
Government of K.P.K.

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APPELLANT
SULTAN MAHMOOD KHAN

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 422 /2012

Mr. Sultan Mahmood Khattak, Member,
Khyber Pakhtunkhwa, Service Tribunal, Peshawar.

324
20-3-2012

.....(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through The Chief Secretary, KPK Peshawar.
2. The Chief Secretary, Government of Khyber Pakhtunkhwa, KPK, Peshawar.
3. The Secretary, Establishment & Administration Department, Government of Khyber Pakhtunkhwa, KPK, Peshawar.
4. The Section Officer (E-I), Government of Khyber Pakhtunkhwa, Establishment & Administration Department, KPK, Peshawar.
5. The Chairman Khyber Pakhtunkhwa Service Tribunal, through the Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
6. Mrs. Rukhsana Rahman (PCS SG BS-21) through respondent No.4 above.

.....(Respondents)

20/3/12
APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE NOTIFICATION NO.SO(E-I) E&AD/5-1/2001, DATED 27.10.2011 OF THE GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT & ADMINISTRATION DEPARTMENT WHEREBY A JUNIOR OFFICER (RESPONDENT NO.6) HAS BEEN PROMOTED TO BPS-21 BY IGNORING THE APPELLANT DESPITE BEING ELIGIBLE AND SENIOR MOST AND AGAINST NOT TAKING ACTION ON THE REPRESENTATION WITHIN STATUTORY PERIOD OF NINETY DAYS.

PRAYER

- (a) That on acceptance of the appeal, this Hon'ble Tribunal may very kindly be pleased to set aside the aforesaid notification dated 27.10.2011 of the Government of Khyber Pakhtunkhwa, Establishment Department to the extent of respondent No. 6 by declaring the same as illegal, without lawful authority, without jurisdiction, malafide, discriminatory and void ab-initio and the respondents may also be directed to consider the appellant for promotion to BPS-21 w.e.from 21.3.2009 when the post was available OR w.e.f. 27.10.2011 when the junior to appellant was promoted along with all service benefits
- (b) Any other relief to which the appellant is entitled and has not been claimed by appellant specifically, may also be very graciously granted in favour of appellant keeping in view the circumstances of the case

RESPECTFULLY SHEWETH

Brief facts of the case are as under:-

FACTS

1. That the appellant was appointed as Section Officer West Pakistan Secretariat (Section Officer) Service. These rules have since been replaced by the Khyber Pakhtunkhwa, Provincial Civil Servants (Service) Rules, 1997. Though the same have also been replaced by the Khyber Pakhtunkhwa, Provincial Civil Servants (Service) Rules, 2007, yet according to Rule-8 of the said Rules, the appellant for the purpose of promotion is to be considered under the Khyber Pakhtunkhwa, Provincial Civil Servants (Service) Rules, 1997.

(Secretariat Group) Rules, 1997 till retirement. Copies of order and rules are attached as Annexure – A, B,C.

2. That after serving for more than 26 years in BPS-17, 18 and 19, the appellant was posted as Secretary Zakat and Social Welfare Department in his own pay and scale w.e.f. 20.5.2005 .The appellant was promoted to BPS-20 on regular basis vide notification dated 23.4.2007 and continued to serve as Secretary, Zakat & Social Welfare Department till next posting. Copies of order & notification are attached as Annexure – D & E.
3. That on 18.5.2007, the appellant was posted as OSD, E&AD/Member Service Tribunal, Peshawar and took over charge as such on 25.5.2007. While working as such, the appellant was nominated for the 89th National Management Course w.e.f. 1.9.2008 till 31.1.2009 (five months) which the appellant successfully completed and qualified. After successful completion of the said training course, the appellant was posted as Member, Service Tribunal. Copies of orders and certificates are attached as Annexure – F, G ,H, I & J.
4. That after successfully qualifying National Management Course and on returned from the National Management Course, the appellant on 31.3.2009 filed an application for promotion to BPS-21 with the Chief Secretary, Khyber Pakhtunkhwa, Peshawar because the vacancy in BPS-21 was available occurred due to retirement of Mr. Ziaur Rahman (PCS SG BS-21) and the appellant was the only eligible candidate for promotion at that time but that application met no response.

Copies of order and application are attached as Annexure - K & L

5. That the appellant is senior to Respondent No.6 as he has joined the service on 7.1.1980 whereas she has joined the service on 24.8.1981. According to the seniority of BPS-19 officer of the Secretariat Group, the appellant is at S.No.7 and the respondent No.6 is at S.No.10. The appellant has more than 30 years of service in BPS-17 and above. Copy of the seniority list is attached as Annexure. - M

6. That the appellant also requested for provision of certain documents including copies of seniority lists since 2007 of the Secretariat Officers in BPS-20 to the Section Officer (E-I), Establishment & Administration Department on 29.10.2011. He has now provided seniority list of officers of PCS Secretariat Group, B-20 as stood on 1.3.2010. As would clear from the said list, the appellant is at S.No. 5 whereas the respondent No.6 is at S.No. 8, hence the appellant stands senior to the respondent No. 6. Copies of request and seniority list are attached as Annexure - N & O.

7. That the private respondent No.6 has been promoted against BPS-21 by the respondents vide Notification dated. 27.10.2011 in violation of seniority and eligibility of appellant. The appellant made representation/review petition for safe guarding his rights on 23-11-2011 and waited for statutory period but no reply has been received to appellant within that period hence the present appeal on the following grounds amongst the others inter alia. Copies of notification and representation are attached as Annexure - P & Q

Representation

FOUNDS:

- A- That not considering the appellant for promotion to BPS-21 despite of being eligible and senior, promoting the private respondent NO.6 who is junior to appellant and not taking any action on the review/ representation of the appellant within statutory period is against the law, rules, material on record and norms of justice.
- B- That the appellant is also entitled for consideration of promotion to B-21 on the following scores:-
- (i) Being senior most officer
 - (ii) Holding regular BS-20
 - (iii) Have completed the prescribed length of service (having more than 30 years service in B-17 and above).
 - (iv) Have successfully qualified the training/course at National Management College, Lahore.
 - (v) With unblemished service record, neither any disciplinary action/enquiry initiated or pending against him with complete PER. No adverse remarks ever communicated to appellant till date.
- C- That the respondents have violated the basic law regarding promotions, according to which (Section 9 of the Khyber Pakhtunkhwa, Civil Servants, Act, 1973) a civil servant possessing such minimum qualification as may be prescribed shall be eligible for promotion to a higher post for the time being reserved under the rules for departmental promotion in the service or cadre to which he belongs. But in the instant case the appellant has been ignored altogether despite of having eligibility and seniority.

- D- That the appellant is also entitled to his claim according to Rule 7(4) of the Khyber Pakhtunkhwa (Appointment, Promotion & Transfer) Rules, 1989, "No promotion on regular basis shall be made to posts in Basic Pay Scale 18, unless the officer concerned has completed such minimum length of service as may be specified from time to time, or, in case of posts in Basic pay Scale 19 to 21, the officer besides having the minimum length of service for the time being required for promotion, has also attended such training and passed such departmental examination as may be prescribed from time to time." Under Rule 9 (b) of the Khyber Pakhtunkhwa, Provincial Civil Service (Secretariat Group) Rules, 1997, the minimum qualification for appointment against the post in BPS-21 of the Secretariat Group has been prescribed and the promotion to the post in BPS-21 shall be on the basis of seniority/fitness from amongst the officers holding posts in BPS-20 who have completed the minimum length of service as prescribed by the government.
- E- That the malafide on the part of respondents is also evident from the fact that according to Section 8(5) of the Khyber Pakhtunkhwa Civil Servants Act, 1973, the appointing authority shall revise and notify the seniority list of the officers/officials of the same cadre or grade once in the calendar year, preferably in the month of January. The appellant has been working against the post carrying scale B-20 since 20.5.2005 and promoted to B-20 regularly on 23.4.2007. Since then no such seniority list furnished to the appellant. This all been done to favour blue eyed persons.
- F- That the appellant while holding regular BS-20, was the only eligible candidate for promotion to B-21 since the retirement of

Mr. Ziaur Rahman (PCS SG BS 21) w.e.f. 21.3.2009 or any vacancy best known to the respondent department. The appellant being senior most has completed the required length of service for promotion to B-21 in B-17 and above and has successfully qualified the required training at National Management College, Lahore and further that the service record of the appellant is quite clear and without any adverse entries.

- G- That the appellant's record is also good because as per para-7 of Part-III of the Performance Evaluation Report (P.E.R) provides for "fitness for promotion" and para-4 of the Part-IV of the report provides for "recommendations for promotion". According to the Performance Evaluation Reports, since 2005 no adverse remarks have been intimated to the appellant which means that the competent authorities have properly declared the appellant fit for promotion and hence recommended accordingly.
- H- The appellant has been also been deprived from the benefits of pay and other emoluments because the pay of the appellant has been reached to the ceiling/maximum of BPS-20. Copy of the pay slips for the months of September & October, 2011 (Annexure-S) and ceiling/maximum of BPS-20 is at Annexure-T. If not promoted/elevated to BPS-21 before 1.12.2011 or not awarded annual increment on 1.12.2011, the appellant would continue to draw his pay in BPS-20 at the said ceiling/maximum with no financial benefit after 30.11.2011, which would be a recurring and irreparable loss to him. -(R)
- I- That not considering the appellant for promotion despite of having seniority and eligibility amounts to withholding of promotion or declaring someone unfit for financial advancement which is a

penalty under Rule 4 (1)(a)(ii) of the Khyber Pakhtunkhwa, Government Servants (E&D) Rules, 2011 and a penalty on a government servant cannot be imposed without adopting proper procedure as prescribed under the law.

- J- That the appellant has not been treated in accordance with the law. He has been deprived/denied promotion without adopting proper procedure as required under the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with rules made there under.
- K- That the notification dated 27.10.2011 of the Government of Khyber Pakhtunkhwa Establishment Department to the extent of respondent NO.6 is illegal, without lawful authority, unwarranted, malafide, discriminatory and void ab-initio, hence not sustainable in the eyes of law. If the said notification is not set aside or amended/modified properly as prayed for, the appellant's service career including seniority and pay structure, would be adversely affected which would be a recurring and irreparable loss to him.
- L- That the order is in clear violation of Section-9 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, Rule 7 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and Rule 9(b) of the Khyber Pakhtunkhwa PCS (Secretariat Group) Rules, 1997.
- M- That the appellate authority by not responding to the review petition has violated Rule 5(1) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 and Rule 17(2) of the Khyber Pakhtunkhwa (E&D) Rules, 2011.

- N- That, the appellant has not been intimated any reason as to why he has not been promoted to BPS-21 along with officers junior to him in his cadre: This is clear violation of Section 24-A(2) of the General Clauses Act, 1897 (Annexure-V). It has been held by the august Supreme Court of Pakistan in 1991 SCMR-2330(e) that in case of Departmental proceedings whether original, review, representational or appellate, and rejection, even if it was not a mandate by any law that the officer concerned should be informed about the reasons which prevailed with the Authority concerned, it would not be illegal either to give reasons; at least, from now onward---Such rule being the judgment of Supreme Court on a legal question, the same would be observed as a declared law."
- O- The service record of the appellant is clear and no disciplinary action is pending or in process against him. Nothing in this respect has been intimated to him so far. The said act of the Establishment Department of not promoting the appellant to BPS-21 is in arbitrary and capricious manner and based on supposition, conjectures, surmises instead of true facts, hence need to be amended/modified as prayed for.
- P- That the appellant has been ignored from the promotion in an arbitrary manner which amounts to punishment and as such the appellant has not been given a chance of personal hearing as provided under rule 15 of the Khyber Pakhtunkhwa Government Servants (E&AD) Rules, 2011. Therefore, he has been deprived of the rule "Audi Alteram Partem"(no one should be condemned unheard). Moreover as reported in the 1999-SCMR-2203, the Maxim "Audi Altram Partem" is not confined to proceedings which are judicial in form but extended to all proceedings, by

whomsoever held, which may affect the person or property or other rights of the party concerned in the dispute.

Q- That the said act of the Establishment Department is in violation of Article 4 of the Constitution of Islamic Republic of Pakistan that every citizen has full protection of law and to be treated in accordance with law. No adverse action against any person shall be taken except in accordance with the law.

R- That the said act of the Establishment Department is also in violation of Articles 25 and 27 of the Constitution of Islamic Republic of Pakistan that all citizens are equal before law and are entitled to equal protection of law. No citizen otherwise qualified for appointment in the service of Pakistan/province shall be discriminated whatsoever.

S- That the appellant has valid right of promotion being the senior most in his cadre in BPS-20, having the prescribed length of service and qualified the National Management Course, the appellant is eligible for promotion to BPS-21 since 1.2.2009, the date, when the appellant returned from National Management Course and was the only eligible officer of the Secretariat Group in BPS-20 for promotion to BPS-21 at that time. There are clear cut vacancies available at various stages due to retirement of Mr. Ziaur Rahman (PCS SG BS-21), Qazi Hifzur Rahman (PCS SG BS-21), Mr Khushdil Khan (PCS SG BS-21) and any special vacancy in the share of the PCS, Secretariat Group. Thus the appellant cannot be deprived of his right of promotion from due date to the acts of the respondents who unlawfully refused to provide the appellant promotion in due course of time.

T- The appellant has not been promoted from due date, the date on which a clear vacancy in BPS-20 for the PCS (Secretariat Group) quota was available. It is a well settled legal position that whenever promotion of a civil servant is delayed for want of certain deficiency or any other reason not attributable to the appellant, he cannot be deprived of promotion from the date when he was eligible in accordance with the law and vacancy do exists. Despite the fact that the appellant is the senior most officer in BPS-20 of the Khyber Pakhtunkhwa Secretariat Group, having more than 30 years of service in BPS-17 and above and qualified the required training is fully eligible for promotion to the post in BPS-21 in his cadre, the Government of Khyber Pakhtunkhwa, Establishment & Administration Department vide notification dated 27.10.2011 (Annexure-C), has withheld promotion of the appellant and an officer junior to him, the respondent No.6, has been promoted and no reason whatsoever intimated to the appellant as to why he has not been promoted.

U- That the Superior Courts have also held in many cases that where promotion to be considered w.e.f. the date when vacancy in the respective quota for promotion became available, (1985-SCMR-1158), .Where it has been held that a civil servant having been prevented for no fault of his, to work on higher post for which he was eligible and also qualified was entitled to antedated promotion with retrospective effect from the date when the post fallen vacant, (1998-PLC(C.S)980). The Government's claim that no civil servant had right to claim that he should be promoted from back date, even though vacancy was available on that date for which promotion was being claimed which although true yet there were no order of government that civil servant's promotion be held up for some time... Delay in making promotion had

occurred entirely due to reason that officers of that department could not carry out fairly simple exercise within reason period... Judgment of Service Tribunal directing government to promote civil servant from specified date would not warrant interference... Leave to appeal was refused in view of the circumstances 1997-SCMR-515, and according to 2010-SCMR-1466, Promotion... Delay... Legitimate expectancy, principle of ... Civil servant was not promoted despite availability of vacancy... Service Tribunal allowed the appeal filed by civil servant and directed the authorities to consider him for promotion from the date when he became eligible for the post as there was vacancy available then... Validity... State functionaries were mandated to act with certain amount of reasonableness... Such canon of due process of law was not observed in processing civil servant's promotion matter... Having acquired requisite experience and having authored number of articles required for post in question, the civil servant had legitimate expectancy for the post in question... Judgment passed by Service Tribunal was neither against the rules nor the law declared... Civil servant was eligible to be considered for promotion when substantive vacancy in promotion quota was available... Judgment passed by Service Tribunal directing the authorities to consider case of civil servant's promotion to post in question from the date when vacancy in his quota was available was unexceptionable... Supreme Court declined to interfere in the judgment passed by Service Tribunal... Appeal was dismissed.

- V- That the appellant will further rely on the august Supreme Court judgment as reported in 2010-SCMR-1301, wherein it has been held that though promotion is not a right but an officer deserves that his case should be considered for promotion in accordance with the law; that if an officer eligible for promotion yet not

promoted and juniors were promoted, the same amounts to glaring violation of command of Article 4 of the Constitution according to which it was inalienable right of individual to be dealt with in accordance with the law.... If officers were considered for promotion having equal merit and eligibility, then seniority was to play a decisive role and ought to have been adhered; provisions of Article 25 of the Constitution has guaranteed equality of citizens... Denying such protections in particular circumstances of case on the basis of reasonable classification founded on an intelligible differentia which distinguishes person or thing that or group together from those who have been left out; civil service is backbone of administration and purity of administration to large extent depends upon purity of service... Such purity can be obtained only if promotion or made on merit in accordance with law and constitution without favoritism or nepotism and that every public functionary to act in the matter justly, fairly and without arbitrariness.

In view of the above, it is prayed that the Hon'ble Tribunal may very kindly be pleased to accept the instant appeal as prayed for with costs.

APPELLANT

(SULTAN MAHMOOD KHATTAK)

THROUGH:


M.ASIF YOUSAFZAI
ADVOCATE.

GOVERNMENT OF N.W.F.P.
SERVICES, GENERAL ADMN: SPORTS & TOURISM
DEPARTMENT
(SERVICES WING)

Dated Peshawar the 6th January, 1980

NOTIFICATION

No. SOS-II(S&GAD)3(81)/73 On the recommendations of the N.W.F.P. Public Service Commission, the Governor NWFP, is pleased to appoint Mr. Sultan Mahmood Khattak as Section Officer (Grade-17) in the N.W.F.P. Secretariat, on the terms and conditions offered vide S&GAD's memo: No. SOS-II(S&GAD)3(32)/75 dated 1/1/1980.

SECRETARY, S&GAD.

Endst: No. SOS-II(S&GAD)3(32)/75, dated Peshawar the 6.1.1980

A copy is forwarded to the :-

1. The Secretary NWFP Public Service Commission w/r to his letter No. NWFP. PSC-EX-80-79/2120, dated 6/11/1979.
2. The Deputy Secretary (General) S&GAD Govt: of NWFP
3. Accountant General N.W.F.P. Peshawar.
4. Section Officer (G-I) S&GAD.
5. Section Officer (Secret) S&GAD
6. Section Officer (B & C) S&GAD
7. Estate Officer, S&GAD.
8. Manager, Govt: Press, Peshawar for publication in the next issue of official gazette.
9. Mr. Sultan Mahmood Khattak c/o Mr. Dilawar Khan Assistant (Imp:II) Section S&GAD
10. Personal file of the officer concerned.
11. Office order file.

M. Ghani
(MIAN SAHIB JAN)
SECTION OFFICER-S-II
S&GAD.

A.H. Shaheen /

Provincial Civil Service (Secretariat Group)
Rules, 1997

[Gazette of N.W.F.P., Extraordinary, Page No. 57-59, July 17, 1997]

No. SORIV(S&GAD)3-7/95.Vol. II., Dated 26-06-1996.—In exercise of the powers conferred by section 26 of the North-West Frontier Province Civil Servants Act, 1973 (N.W.F.P. Act XVIII of 1973), the Governor of the North-West Frontier Province, is pleased to make the following rules, namely:—

PART I—GENERAL

1. Short title and commencement.—(1) These rules may be called the North-West Frontier Province Provincial Civil Service (Secretariat Group) Rules, 1997.

(2) They shall come into force at once.

2. Definitions.—In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:—

(a) "Appointing Authority" means the authority specified in column 3 against serial No. 1 of the Table in rule 4 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989;

(b) "Attached Department" means a Department as defined in rule 2 (b) of the North-West Frontier Province Government Rules of Business, 1985;

(c) "Commission" means the North-West Frontier Province Public Service Commission;

(d) "Government" means the Government of the North-West Frontier Province;

(e) "Governor" means the Governor of the North-West Frontier Province;

(f) "Initial recruitment" means appointment made otherwise than by promotion or transfer;

(g) "recognised University" means any University incorporated by law in Pakistan or any other University which may be declared as recognised by Government;

(h) "post" means a post specified in the Schedule appended to these rules;

(i) "Schedule" means the Schedule appended to these rules at Appendix "A" to be revised from time to time;

- (j) "Secretariat" means the North-West Frontier Province Civil Secretariat defined in rule 2 (r) of the North-West Frontier Province Government R. Business, 1985;
- (k) "service" means the North-West Frontier Province Provincial Civil Service (Secretariat Group);
- (l) "share" means the share of the Officers of the service in the posts as allocated under these rules; and
- (m) "Province" means the North-West Frontier Province.

PART II - RECRUITMENT

3. Number and Nature of Posts. The service shall comprise—
- (a) 80% of the total number of posts of Section Officers in the Secretariat; and
- (b) various other posts in B-17 to B-21 as per share allocated under rule 6 of these rules.
4. Appointing Authority.—Appointment to the service shall be made by the authority as specified in rule 2 (a).
5. Method of Recruitment.—The members of the service shall be recruited in BPS-17 as per following method:—
- (i) 50% of posts in B-17 shall be filled by initial recruitment based on the result of a Competitive Examination to be held by the Commission for this purpose in accordance with Appendix B to these rules; and
- (ii) the remaining 50% of the posts in B-17 shall be filled in by way of promotion on the basis of seniority-cum-fitness from amongst the Superintendents and Private Secretaries who have undergone a training course of nine (9) weeks at the Provincial Management Academy / provincial Staff Training Institute.
- Note.—A common seniority list shall be maintained of the Superintendents and Private Secretaries for the purpose of promotion to the posts of Section Officers.
6. Share of the Service in Schedule Posts.—(1) The share of Provincial Officers in Schedule posts in various grades shall be distributed between Provincial Civil Service (Secretariat Group) and Provincial Civil Service (Executive Group) at the ratio worked out on the basis of their cadre strength i.e. the total sanctioned posts of Section Officers and Extra-Assistant Commissioners respectively (less 10% of the Secretariat Posts in B-18 and above which shall be reserved for the Officers of the Technical Departments on tenure basis) as may be revised from time to time.
- (2) For the purpose of sub-rule (1) above, the number of posts falling to the share

of Provincial Officers shall be worked out at the following ratio:-

<u>BPS/Grade of the Posts</u>	<u>Share of Provincial Officers</u>
21	35 %
20	40 %
19	50 %
18	60 %
17	75 %

7. Age.—(1) No person shall be appointed to the service by initial recruitment in BPS-17 who is less than twenty-one years or more than twenty-eight years of age, provided that in the case of persons serving in connection with the affairs of the Federation (on regular basis) who are domiciled in the Province and the persons serving in connection with the affairs of the Province (on regular basis), with at least three (3) years service as such, the upper age limit shall be 35 years.

(2) The age shall be reckoned from the 1st January of the year in which the Competitive Examination is proposed to be held by the Commission.

8. Qualifications.—(1) No person shall be appointed to the service by initial recruitment unless he is a Graduate from a recognised University.

(2) No person, not already in Government service, shall be appointed to the service unless he produces a certificate of character from the Head of Academic Institution last attended; and also certificate of character from two other responsible persons, not being his relatives, who are well acquainted with his character and antecedents.

PART III—PROMOTION

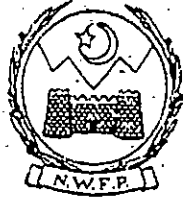
9. Promotion.—The appointments against various posts to BPS-16 and above shall be made by way of promotion as per following manner:-

(a) To ensure minimum possible standards, the promotion to the posts in B-18 as worked out under rule 6(1) shall be made on the basis of seniority / fitness from amongst the members of the service, holding posts in BPS-17 who have successfully completed the prescribed training course at the Provincial Academy for Management and have passed the prescribed departmental examination, if any, and have completed the minimum length of service in B-17 as notified by the Government from time to time.

(b) Promotion to the posts in B-19, 20 and 21 shall be made on the basis of seniority / fitness from amongst the officers holding posts in BPS-18, 19 and 20 respectively who have completed the minimum length of service as prescribed by the Government.

10. Repeal.—The West Pakistan Secretariat (Section Officer) Service Rules, 1962 and the West Pakistan Deputy Secretaries Recruitment Rules, 1963 are hereby repealed.

For Appendix A and B and C Please See Gazette of N.W.F.P., Extraordinary, Page No. 221-232, dated 29-09-1997



1

(F)
C

GOVERNMENT OF THE
NORTH-WEST FRONTIER PROVINCE
ESTABLISHMENT DEPARTMENT

NOTIFICATION

Dated Peshawar the 11.05.2007.

No.SOE.II(ED)2(14)2007:

In exercise of the powers conferred by section 26 of the North-West Frontier Province Civil Servant Act, 1973 (N.-W.F.P. Act XVIII of 1973), the Chief Minister of the North-West Frontier Province is pleased to make the following rules, namely:

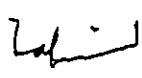
THE NORTH-WEST FRONTIER PROVINCE PROVINCIAL
MANAGEMENT SERVICE RULES, 2007.

1. Short title and commencement.---(1) These rules may be called the North-West Frontier Province Provincial Management Service Rules, 2007.

(2) These rules shall come into force at once.

2. Definitions.---In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "appointing authority" means the appointing authority as specified in rule 5 of these rules;
- (b) "Commission" means the North-West Frontier Province Public Service Commission;
- (c) "Department" means the Establishment and Administration Department;
- (d) "Departmental Examination" means the prescribed examination to be conducted by the Department for confirmation within probationary period or for promotion to higher post, as the case may be;
- (e) "Departmental Training" means any training prescribed by Government, the successful completion whereof is necessary for promotion to BS-18 and BS-19;
- (f) "Schedule" means the Schedule appended to these rules;
- (g) "Service" means the Provincial Management Service;


Section Officer (E-II)
Establishment &
Administration Deptt:

- (h) "Secretariat" means the North-West Frontier Province Civil Secretariat as defined in rule 2(r) of the North-West Frontier Province Government Rules of Business, 1985; and
- (i) "share" means the share specified for distribution between All Pakistan Unified Group and Provincial Officers as per Schedule-III.

3. **Nomenclature of the posts.**---The Service shall consist of the posts as specified in Schedule-I.
4. **Method of recruitment.**---(1) The method of recruitment, minimum qualification, age limit and other matters related thereto for the Service shall be as given in Schedule-I.
- (2) Fifty per cent of posts in BPS-17 shall be filled in by initial recruitment through Commission and remaining by promotion. Ten percent of Secretariat posts in BPS-17 to 19 shall be reserved for officers of technical departments on reciprocal basis. Government may reserve twenty per cent posts for leave, deputation and training etc in each pay scale.
- (3) Posts specified in Schedule-II shall be filled in by Officers borne on Provincial Management Service and All Pakistan Unified Group in the ratio prescribed in Schedule-III.
5. **Appointing Authority.**---The Chief Minister, N.-W.F.P. shall be the appointing authority for posts borne on the Provincial Management Service specified in Schedule-I.
6. **Saving.**---In all other matters not expressly provided for in these rules, the members of the Service shall be governed by the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and any other rules pertaining to terms and conditions of service made or deemed to have been made under the North-West Frontier Province Civil Servants Act, 1973 (N.-W.F.P. Act No. XVIII of 1973).
7. **Transitional:-** The condition of graduation as laid down in para 2(a) and (b) of column-5 against serial No. 1 of Schedule-I shall not apply for a period of seven years from the date of coming into force of these rules to the existing incumbents for promotion against BS-17 posts.
8. **Repeal.**---The North-West Frontier Province Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 shall stand repealed after the retirement of existing incumbents of both the cadres. Separate seniority list of both the cadres shall be maintained under the existing rules and they shall be promoted at the ratio of 50: 50. The existing incumbents of PCS (EG) and (SG) in different pay scales, for the purpose of their promotion, shall continue to be governed under the said service rules till the retirement of the last such incumbent.

Bob


CHIEF SECRETARY
Government of the
North-West Frontier Province.

No.SOE.II(ED)2(14)2007

Dated Peshawar the 11.05.2007

A copy is forwarded to:-

1. Secretary to Governor NWFP.
2. Secretary (Admn: & Coord:), Civil Secretariat (FATA).
3. Principal Secretary to Chief Minister, NWFP, Chief Minister Secretariat.
4. Additional Chief Secretary, NWFP.
5. Senior Member, Board of Revenue, NWFP.
6. All Administrative Secretaries to Govt of NWFP.
7. Chairman, NWFP Public Service Commission.
8. Accountant General NWFP.
9. Director, STI, E&A Department.
10. Manager, Govt Printing Press, NWFP, Peshawar for publication in the official gazette at an early date, with the request to supply 20 printed copies to the undersigned.
11. All Section Officers in E&A Department.
12. PS to Chief Secretary, NWFP.
13. PS to Secretary Establishment.
14. PAs to all Addl: Secretaries / Deputy Secretaries Establishment Dept.
15. Office order file.


(KHALID ILYAS)
Section Officer(E-II)
Section Officer (E-II)
Establishment &
Administration Dept.



D
G

GOVERNMENT OF N.W.F.P.
ESTABLISHMENT & ADMINISTRATIVE
DEPARTMENT

Dated Peshawar the 20th May, 2005

NOTIFICATION

NO. SO(E-I)E&AD/1-1/2005 The Competent Authority is pleased to order the postings/transfers of following officers in the public interest, with immediate effect:-

S. NO	NAME OF OFFICER	FROM	TO
1.	Mr. Noor-ul-Haq Khan (PCS SG BS-20)	Secretary to Govt. of NWFP, Zakat, Ushr, SW&WD Deptt:	Secretary to Govt. of NWFP, Environment Deptt: relieving Mr. Ghazi Marjan, CCI of Addl. charge.
2.	Mr. Sultan Mehmood Khattak (PCS SG BS-19)	Additional Secretary, Environment Deptt:	Secretary to Govt. of NWFP, Zakat, Ushr, SW&WD Deptt: in his own pay & grade
3.	Mr. Mohammad Khalid Khan (PCS EG BS-19)	On promotion awaiting posting.	Additional Secretary, Environment Department.

**CHIEF SECRETARY
GOVERNMENT OF N-W.F.P.**

Encls. No. & date given:

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Senior Member, Board of Revenue, NWFP.
3. Principal Secretary to Governor, NWFP.
4. Secretary to Governor, NWFP.
5. Secretary to Chief Minister, NWFP.
6. All Administrative Secretaries, NWFP.
7. Accountant General, NWFP.
8. PSO to Senior Minister, NWFP.
9. PSs to All Provincial Ministers, NWFP.
10. PS to Chief Secretary, NWFP, Peshawar.
11. PS to Secretary Establishment, E&A Deptt.
12. PA to S.S.(Reg.)/A.S.(Establishment)/DS(Admn)/Dy: Director (Protocol) (Secy)/ACSO/Computer Programme Office & Librarian E&A Deptt.
13. Officers concerned.
14. Manager Govt Printing Press, Peshawar.

(ABDUL JALIL)

SECTION OFFICER(E-I)
PHONE & FAX # 091-9210329

44/22



GOVERNMENT OF N.-W.F.P.
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

Dated Peshawar the 23rd April, 2007

NOTIFICATION

NO.SO(E-I)E&AD/5-1/2007. The Competent Authority on the recommendations of the Provincial Selection Board is pleased to promote, the following officers of PCS (Secretariat Group) to BS-20 on regular basis with immediate effect:-

S. No.	Name of Officer
1.	Mr. Sultan Mahmood Khattak.
2.	Mr. Abdus Samad Khan.

2. The officers on promotion will remain on probation for a period of one year in terms of Section 6(2) of NWFP Civil Servants Act, 1973 read with Rule-15(1) of NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

3. Consequent upon above, the officers will remain posted on their present place of posting as under:-

S. No.	Name of Officer	Place of posting
1.	Mr. Sultan Mahmood Khattak (PCS SG BS-20)	Secretary to Govt of NWFP, Zakat, Ushr & Social Welfare Department.
2.	Mr. Abdus Samad Khan (PCS SG BS-20)	Secretary to Govt of NWFP, Health Department.

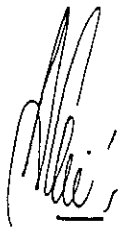
**CHIEF SECRETARY
GOVERNMENT OF N.-W.F.P.**

Endst. No. & date even.

Cop. forwarded to the:-

1. Secretary to Governor, NWFP.
2. Principal Secretary to Chief Minister, NWFP.
3. Accountant General, NWFP.
4. PS to Minister for Zakat, NWFP.
5. PS to Minister for Health, NWFP.
6. PS to Chief Secretary, NWFP.
7. PS to Secretary Establishment, E&A Department.
8. Officers concerned.
9. Manager, Govt Printing Press, Peshawar.

M. Yousuf Jatoi


23.4.2007
(ABDUL JALIL)
SECTION OFFICER(E-I)
PHONE & FAX # 091-9210529



GOVERNMENT OF N.-W.F.P.
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

Dated Peshawar, the 18th May, 2007

NOTIFICATION

NO.SO(E-I)E&AD/1-1/97. The Provincial Government is pleased to order the posting/transfers of the following officers, in the public interest, with immediate effect:-

S. NO	NAME OF OFFICER	FROM	TO
1.	Col (R) Muhammad Javed Noor (FSG BS-20)	Awaiting posting in E&AD Department.	Chairman, Health Regularity Authority, NWFP against the vacant post.
2.	Mr. Rehmatullah Khan (Comm & Trad Group BS-20)	Awaiting posting in E&AD Department.	Secretary to Govt of NWFP, Zakat, Ushr & Social Welfare Deptt:
3.	Mr. Sultan Mahmood Khattak (PCS BSG BS-20)	Secretary to Govt of NWFP, Zakat, Ushr & Social Welfare Deptt:	OSD, E&AD/Member, NWFP Services Tribunal.

**CHIEF SECRETARY
GOVERNMENT OF NWFP**

Endst. No & date even.

Copy forwarded to the:-

1. Secretary to Governor, NWFP.
2. Principal Secretary to Chief Minister, NWFP.
3. All Administrative Secretaries to Govt of NWFP.
4. Chairman, NWFP Services Tribunal, Peshawar.
5. Accountant General, NWFP.
6. Director (ID) Establishment Division, Govt of Pakistan, Islamabad.
7. Section Officer (E-I), Estt: Division, Govt of Pakistan, Islamabad.
8. Mr. Muhammad Owais, Section Officer, Ministry of Commerce, Govt of Pakistan, Islamabad.
9. PS to Minister for Health NWFP.
10. PS to Minister for Zakat, NWFP.
11. PS to Chief Secretary, NWFP.
12. PS to Secretary Establishment, NWFP.
13. Officers concerned.
14. Manager Govt Printing Press, Peshawar.

(Signature)
18.5.2007

(ABDUL JALIL)
SECTION OFFICER(E-I)
PHONE & FAX # 091-9210529

To

The Chairman,
NWFP Service Tribunal,
Peshawar.

Subject:- ARRIVAL REPORT.

Sir,

In pursuance of the Government of NWFP, Establishment and Administration Department, NWFP Peshawar Notification No. SO(E-I) E&AD/1-1/97, dated 18.5.2007, I, Sultan Mehmood Khattak (PCS SG BS-20), hereby submit my arrival for duties today the 25th May, 2007 (F.N).

(SULTAN MEHMOOD KHATTAK)
OSD, E&AD/MEMBER,
NWFP SERVICE TRIBUNAL
PESHAWAR.

Copy forwarded to :- No. 745-48/S.T dt. 25/5/07

1. P.S. to Chief Secretary Government of NWFP Peshawar.
2. P.S. to Secretary Establishment, Govt; of NWFP Peshawar.
3. P.S. to Secretary Administration, Govt; of NWFP Peshawar.
4. Registrar, NWFP Service Tribunal Peshawar.

(SULTAN MEHMOOD KHATTAK)
OSD, E&AD/MEMBER,
NWFP SERVICE TRIBUNAL,
PESHAWAR.

GOVERNMENT OF PAKISTAN
National School of Public Policy

H 25
Telegram: PASCOL
Fax: 9200926
PABX: 9200921-5
E-mail: pasc@hr.comsats.net.pk

The Chief Secretary,
N.W.F.P.,
Peshawar.

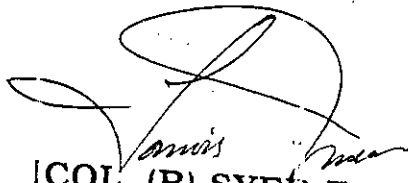
C/O Senior Management Wing,
(Former NIPA)
78-Upper Mall, Lahore.
No. 14/28/2008-NSPP (A.1)

Dated: 31-01-2009

NOTIFICATION

Mr. Sultan Mahmood Khattak, a Participant of 89th National Management College has attended the course from 1st September, 2008 to 31st January, 2009 and relieved after successful completion of his training period.

Free messing/accommodation and transport has been provided to the officer during the session 89th NMC.



[COL. (R) SYED TANVIR IMRAN]
Additional Director (Admin)

Copy forwarded for information to:

1. The Secretary, Establishment Division, Government of Pakistan, Islamabad.
2. The Secretary, Cabinet Division, Government of Pakistan, Islamabad.
3. The Joint Secretary, (Training), Government of Pakistan, Establishment Division, Islamabad.
4. Officer concerned.
5. Master File.

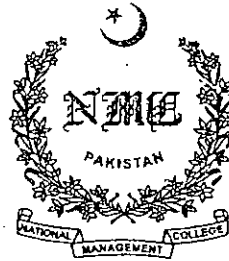
CC:

- S.O. to Rector, NSPP.
- Training Wing, NMC.
- Finance Wing, NSPP, Lahore.
- Accounts Officer, I-II-III, NSPP, Lahore.

Circulation File

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

National Management College



(Integral Unit of National School of Public Policy)

This is to certify that

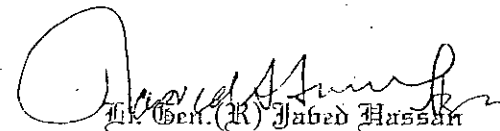
Mr. Sultan Mahmood Khattak

has attended the

89th National Management Course

at the National Management College, National Management Wing from

1st September, 2008 to 31st January, 2009 and qualified



Lt. Gen. (R) Javed Hassan
Rector
(National School of Public Policy)



GOVERNMENT OF N.-W.F.P.
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT.

Dated Peshawar the 17th March, 2009

NOTIFICATION

NO. SO(E-I)E&AD/5-75/2009. The Competent Authority is pleased to order the postings/transfers of the following officers, in the public interest, with immediate effect:-

S #	NAME OF OFFICER	FROM	TO
1.	Mr. Sultan Mehmood Khattak (PCS SG BS-20)	OSD, E&AD.	Member, NWFP Services Tribunal, Peshawar, against vacant post.
2.	Mr. Muhammad Dildar (PCS EG BS-18)	Deputy Secretary, Home & Tribal Affairs Department.	Programme Manager, District Reconstruction Unit, Mansehra in OPS against vacant post.
3.	Mr. Muhammad Yaqoob Khan (BS-18 Engr: PIT)	Director, Building Control Agency, Peshawar Development Authority.	Senior Engineer, Provincial Inspection Team, NWFP against vacant post.

CHIEF SECRETARY,
GOVERNMENT OF N.W.F.P.

Endst. No. & date even

Copy forwarded to the:-

1. Additional Chief Secretary, P&D, NWFP.
2. Secretary to Governor, NWFP.
3. Principal Secretary to Chief Minister, NWFP.
4. Chairman, NWFP Services Tribunal, Peshawar.
5. Chairman, Provincial Inspection Team, NWFP.
6. Secretary to Govt of NWFP, Home & Tribal Affairs Deptt.
7. Secretary to Govt of NWFP, Local Govt & Rural Dev: Department.
8. Accountant General, NWFP.
9. Divisional Commissioner, Hazara Division, Abbottabad.
10. Director General-cum-Secretary, PERRA, NWFP, Abbottabad.
11. Director General, Peshawar Development Authority, Peshawar.
12. District Coordination Officer, Mansehra.
13. Programme Manager, District Reconstruction Unit, Mansehra.
14. District Accounts Officers, Mansehra.
15. PS to Senior Minister for LG&RD, NWFP.
16. PS to Chief Secretary, NWFP.
17. P.S. to Secretary Establishment.
18. Officers concerned.
19. Manager Govt Printing Press, Peshawar.

17.03.09
(ABDUL JALIL)
DEPUTY SECRETARY (ESTT)
PHONE & FAX # 091-9210529

At, Yousuf Jatoi

K 28

NWFP
Service Tribunal
Case No: 575
Date 31-3-09.

To

The Chief Secretary,
Government of NWFP,
Peshawar.

Through:- PROPER CHANNEL.

Sub:- PROMOTION FROM B-20 TO B-21.

Sir,

I, the undersigned was initially appointed as Section Officer since 7.1.1980 and has completed 29 years of services. I have also successfully completed 89th National Management Course at NMC, Lahore, mandatory for promotion from B-20 B-21 (Copy of certificate attached). I am the most senior Officer in Cadre/Service and the only eligible candidate for promotion to B-21.

2. According to Section 9 (i) of the NWFP Civil Servants Act 1973, a civil servant possessing such minimum qualifications as has been prescribed, shall be eligible for promotion to a higher post for the time being reserved under the rule for departmental promotion in the service or cadre to which he belongs.

3. A post in B-21 in the Provincial Civil Services (Secretariat Group) has fallen vacant due to retirement of Mr. Zia-ur-Rchman (PCS-SG-B-21) on 21.3.2009 (Copy of order enclosed). According to Rule 9 (b) of the NWFP, PCS (Secretariat Group) Rules, 1997, promotion to the post in B-21 shall be made on the basis seniority-cum-fitness from amongst the officers holding posts in B-20 who have completed the minimum length of service as prescribed by the Government. Rule 7 (3) of the NWFP (Appointment, Promotion & Transfer) Rules 1989 provides that a person possessing such qualification and fulfilling such conditions to a post, shall be considered by the PSB for promotion.

4. Since the undersigned is the only qualified person in the cadre and fulfill all the conditions as laid down for promotion to the post in B-21, therefore, it is requested that the undersigned may please be considered by the Provincial Selection Board for promotion w.e.f. the date of availability of post in B-21.

Stc.
(SULTAN MANMOOD KHATTAK)
(PCS SG B-20)
MEMBER
NWFP SERVICE TRIBUNAL
PESHAWAR.
Dated 30/3/2009

Copy forwarded to :-

1. The Chairman NWFP Service Tribunal, Peshawar.
2. The Additional Chief Secretary, Govt. of NWFP P&D Department.
3. The Senior Member, BOR, Peshawar.
4. The Secretary to Govt. of NWFP, Establishment Department.
5. The P.S to Chief Secretary NWFP.

GOVERNMENT OF N.W.F.P.
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT.

Dated Peshawar the 4th March 2009

NOTIFICATION

NO.SO(E-I)E&AD/5-37/84. The Competent Authority has been pleased to order that Mr. Zia-ur-Rehman (PCS SG-BS-21), upon retirement/superannuation on 21-03-2009, is re-appointed on contract for (6) months as Advisor to Govt of NWFP on Net Hydel Profits on terms & conditions agreed.

CHIEF SECRETARY
GOVERNMENT OF N-W.F.P.

Endst. No. SO(E-I)E&AD/5-37/84 Dated Peshawar the 13th March, 2009

Copy forwarded to the:-

1. Secretary to Governor, NWFP.
2. Principal Secretary to Chief Minister, NWFP.
3. All Administrative Secretaries to Govt of NWFP.
4. Accountant General, NWFP, Peshawar.
5. PS to Minister for Finance, NWFP.
6. PS to Chief Secretary, NWFP.
7. PS to Secretary Establishment, E&A Department.
8. Mr. Zia-ur-Rehman, OSD, E&AD.
9. Manager, Govt Printing Press, Peshawar.



13.03.09

(ABDUL JALIL)
DEPUTY SECRETARY (ESTT)
PHONE & FAX # 091-9210529

M. Yousuf Jatoi

= 30

LIST OF PCS (SECRETARIAT GROUP)
OFFICERS OF (BS-19)

S.No	NAME OF OFFICER WITH DOMICILE	DATE OF BIRTH / DATE OF JOINING SERVICE	PRESENT POSTING WITH DATE
1	2	3	4
1.	Mr. Muhammad Asif Khan (A,Abad).	01-09-52 01-01-76	Addl Secretary, Health Deptt: (15.02.2005)
2.	Dr. S.B Jan Unqa (Mardan).	22-11-46 10-09-76	Add Secretary, Higher Education Deptt: (08.03.2004)
3.	Mr. Muhammad Ishfaq Khan (Swabi)	1-10-55 26-09-79	On EOL/P.D, Malakand Rural Dev Project (9.06.2004) <i>Ex Cash (EOL)</i>
4.	Mr. Faizullah Khan Khattak (Karak)	1-1-47 15-04-65	OSD, E&AD/Posted in the Provincial Economy Commission 1.11.2004
5.	Mr. Noor-ul-Haq Khan (Dir)	01-01-49 03-11-65	Secy Zakat, Ushr & SW Deptt. (30.11.2004)
6.	Mr. Muhammad Humayun (Abbottabad)	1-3-55 26-09-79	Special Secretary (Regulation), E&A Deptt (4.11.2004)
* 7.	Mr. Sultan Mehmood Khattak (Karak).	20-07-54 07-01-80	Additional Secretary, Environment Deptt: <i>Secy. Zakat / SW</i> <i>24-5-2005 (in his own pay)</i>
8.	Mr. Abdus Samad Khan (Peshawar).	14-7-50 21-10-74	Secretary, Health Deptt: (29.09.2004)
9.	Sahibzada Fazal Amin (Swabi).	4-4-56 20-08-81	Add: Secy LG & RD Deptt 25.10.2004.
10.	Mrs. Rukhsana Rehman. (NWFP)	06-04-56 24-08-81	OSD, E&AD 10.04.2004
11.	S. Niamat Shah (Mansehra)	15-05-46 25-08-64	Addl Secy Zakat & Ushr Deptt: (25.10.2004)
12.	Mr. Ghulam Jilani Asif (Peshawar)	29.10.51 17.6.72	Member (General) GIT, NWFP 30.12.2004
13.	Mr. Gul Zeb Khan (Swabi)	9.3.58 26.10.82	Addl: Secretary, Zakat & Ushr Deptt: (9.07.2004)
14.	Mr. M. Arifeen (Nowshera)	5.6.57 2.7.83	AS Cabinet, E&A Deptt 15.03.2003

* awaiting promotion since 9-6-04

N 310

30

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

No. 1466 /ST,

Peshawar, the 29.10.2011.

To:

The Section Officer (Service-I)
Government of Khyber Pakhtunkhwa.
Establishment & Administration Department,
Peshawar.

Subject:- PROVISION OF COPIES OF CERTAIN OFFICIAL DOCUMENTS.

Official copies of the following documents have not been furnished to the undersigned since April, 2007. The same may please be provided now:-

- i. Seniority lists of the PCS(SG) Officers in BPS-20 for the years, 2007, 2008, 2009, 2010, 2011.
- ii. Any promotion orders of the Secretariat Officers (BPS-20) to BPS-21 issued in pursuance to the above lists since April, 2007 till date.
- iii. Working papers for such promotion cases as referred to in para-ii above.
- iv. Corrected/updated copies of Provincial Service Rules (a) PCS (SG) Rules, 1997, and (b) PMS Rules, 2007.



(SULTAN MAHMOOD KHATTAK)
MEMBER
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

29/10/11

Service Tribunal, Peshawar

WDD Book: 32

DAK BOOK

Date	Subject addressed	Contents of page	Name of Warrant Officer	Page No.
①	Section Officer Service-T EAD	No. 1466/S.T		
	① @ UK 29/10/2011			

WARRANT

WDD Book

Only

32

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

33

No. SO (E-I) E&AD/5-75/11
Dated Peshawar, the December 13th, 2011

Received to day

23-12-2011

To

Mr. Sultan Mahmood Khattak,
Member, Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

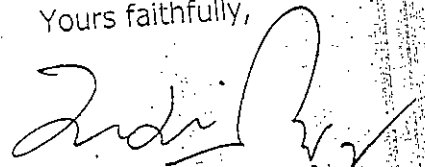
SUBJECT:- PROVISION OF COPIES OF CERTAIN OFFICIAL DOCUMENTS.

Dear Sir,

I am directed to refer to your letter No. 1466/ST dated 29-10-2011 on the subject noted above and to enclose copies of the following official documents as desired:-

1. A copy of Seniority List of the PCS (SG) Officers in BS-20 for the year 2010.
2. A copy of promotion order of Secretariat Officer from BS-20 to BS-21.
3. Corrected/updated copies of Provincial Service Rules (a) PCS (SG) Rules, 1997 and (b) PMS Rules, 2007

Yours faithfully,



(ZUBAIR AHMAD)
SECTION OFFICER (ESTT-I)
PH: & FAX # 091/9210529



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

[Handwritten signature]
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Dated Peshawar the 14TH June 2010

NOTIFICATION

NO. SO(E-I)E&AD/5-65/2010. In pursuance of Section-8(1) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, Final Seniority list of Officers of PCS (Secretariat Group) BS-20, as it stood on 8th March 2010 notified/circulated:-

FINAL SENIORITY LIST OF OFFICERS OF PCS (SECRETARIATS GROUP) BS-20

S.#	Name of the Officer	Date of birth and Domicile	Date of 1 st entry into Govt Service	Regular appointment/Promotion to present post			Present Posting
				Date	BPS	Method of Recruitment	
1	2	3	4	5	6	7	8
1.	Mr. Shaukat Ali Mohmand	01-01-1953 (Mohmand Agy:)	19-12-1975	23.5.2002	20	By Promotion	On deputation to Federal Govt, Islamabad w.e.f 24.5.2005.
2.	Mr. Muhammad Asif Khan	01-09-1952 (Abbottabad)	01-01-1976	16.2.2007	20	-do-	OSD E&AD (1.7.2009)
3.	Mr. Muhammad Ishfaq Khan	1-10-1955 (Swabi)	26-09-1979	8.3.2007	20	-do-	Secretary, Irrigation Deptt: (22.7.2008)
4.	Mr. Muhammad Humayun	1-3-1955 (Abbottabad)	26-09-1979	10.10.2006	20	-do-	Chairman Tanzeem Lassil-e-Wal Mahroom. (22.02.2010)
5.	Mr. Sultan Mehmood Khattak	20-07-1954 (Karak).	07-01-1980	23.4.2007	20	-do-	Member NWFP Service Tribunal (17.3.2009)
6.	Mr. Abdus.Samad Khan	14-7-1950 (Peshawar).	21-10-1974	23.4.2007	20	-do-	Secretary Zakat Ushr, Deptt: (14.10.2009)
7.	Sahibzada Fazal Amin	4-4-1956 (Swabi).	20-08-1981	23.12.2006	20	-do-	Secretary, Sports, Culture & Tourism Deptt: (3.4.2008)

[Handwritten signature]
PESHAWAR.

53

8.	Mrs. Rukhsana Rehman.	06-04-1956 (Kohat)	24-08-1981	3.1.2007	20	-do-	On deputation to Federal Govt. 8.2.2007.
9.	Mr. Ghulam Jilani Asif M.A. Pol. Sc: M.A. History M.A. Islamiat, LLB	29.10.1951 (Peshawar)	17.6.1972	10.7.2007	20	-do-	Member (General) GIT, NWFP 30.12.2004
10.	Mr. Gul Zeb Khan	9.3.1958 (Swabi)	26.10.1982	10.7.2007	20	-do-	Director, S.T.I, E&AD. (2.6.2008)
11.	Mr. Muhammad Arifeen	5.6.1957 (Nowshera)	2.7.1983	4.12.2007	20	-do-	Secretary, Elementary & Secondary Education Deptt: (9.6.2008)
12.	Mr. Muhammad Nawaz Khan	4.1.1955 (Mohmand Agency)	2.7.1983	4.12.2007	20	-do-	Director (Finance) S.D.A. (4.12.2007)
13.	Mr. Muhammad Younis Javed (B.Sc. Hons.) M.Sc. Geology)	1.2.57 (S.W. Agency)	10.7.83	06.01.2009	20	-do-	G.M (F&A) FDC (21.1.2010)
14.	Mr. Ahmad Khan	2.8.1955 (Peshawar)	24.4.1976	2.6.2008	20	-do-	OSD E&AD. (23.02.2010)
15.	Mr. Muhammad Farid Qureshi	2.9.52 (A.Abad)	15.5.73	06.01.2009	20	-do-	Special Secretary (Reg)-E&AD (12.3.2009)
16.	Mr. Sajid Khan	15.4.57 (A.Abad)	02.7.83	06.01.2009	20	-do-	Secretary, E&T, Deptt: (30.8.2008)
17.	Mr. Nizam-ud-Din	02.02.1962 (Chitral)	05.05.1987	2.12.2009	20	-do-	OSD E&AD (3.12.2009)

Endst: No. & date even

Copy forwarded to the:-

1. Secretary to Governor, Khyber Pakhtunkhwa
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
3. All Administrative Secretaries to Govt of Khyber Pakhtunkhwa
4. PS to Chief Secretary, Khyber Pakhtunkhwa
5. PS to Secretary Establishment, Khyber Pakhtunkhwa
6. Officers concerned.
7. Manager, Govt Printing Press Peshawar.

CHIEF SECRETARY
GOVT: OF KHYBER PAKHTUNKHWA



(ZUBAIR AHMAD)
SECTION OFFICER (ESTT-I)
PHONE & FAX # 091-9210529

PESHAWAR.

(10)

P
B

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT**

Dated Peshawar, the 27TH October 2011

NOTIFICATION

NO.SO(E-I)E&AD/5-1/2001. Government of Khyber Pakhtunkhwa on the recommendations of the Provincial Selection Board is pleased to promote the following officers of PCS (Secretariat Group) as noted against each, on regular basis with immediate effect:-

S. #.	NAME OF OFFICER	FROM	TO
1.	Mrs. Rukhsana Rehman	BS-20	BS-21
2.	Mr. Zakiullah	BS-19	BS-20
3.	Syed Alamgir Shah	BS-19	BS-20
4.	Syed Hidayat Jan	BS-19	BS-20

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

3. Consequent upon the above, the following postings/transfers are made henceforth:-

S.#	NAME OF OFFICERS	FROM	TO
1.	Mrs. Rukhsana Rehman (PCS SG BS-21)	Joint Secretary Establishment Division, Islamabad	Secretary Relief, Rehabilitation & Settlement Department (relieving Mr. Shakeel Qadir Khan of the additional charge) against the vacant post.
2.	Mr. Zakiullah (PCS SG BS-20)	Additional Secretary, Local Government & Rural Development Department	Member (General) Governor's Inspection Team. The officer shall assume the charge after retirement of Mr. Ghulam Jilani Asif (PCS SG BS-20) on 29.10.2011.
3.	Syed Alamgir Shah (PCS SG BS-20)	Reforms Coordinator, Reforms Cell, Establishment Department	Secretary Transport Department, against the vacant post (relieving Mr. Azmat Hanif Orakzai DMG BS-21 of the additional charge) for actualization of his promotion and after that the officer shall report to Establishment Department and Mr. Azmat Hanif Orakzai (DMG BS-21) shall continue additional charge of the post of Secretary, Transport Department.
4.	Syed Hidayat Jan (PCS SG BS-20)	Deputy Director, PMU Chief Minister's Secretariat.	Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, against the vacant post (relieving Mr. Tarik Jamil (DMG BS-20) of the additional charge). After actualization of his promotion the officer shall be posted as Deputy Coordinator, PMU for National Programme for Improvement/Lining of Water Courses in Pakistan (Khyber Pakhtunkhwa Component) (NPI/LWCP) Chief Minister's Sect: (which is the post of BS-19/20) and Mr. Tarik Jamil (DMG BS-20) shall continue additional charge of the post of Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.

**CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA**

CONTD..... P/2

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

23-11-2011
23-12-11
23-1-11
23-2-11



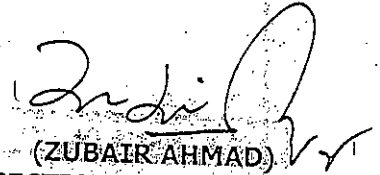
37
GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

(PAGE-----2)

Endst. of even No. & date

Copy forwarded to the:-

1. Secretary Establishment Division, Cabinet Secretariat, Islamabad.
2. Additional Chief Secretary, P&D Department.
3. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
4. Additional Chief Secretary (FATA), FATA Secretariat.
5. All Administrative Secretaries in Khyber Pakhtunkhwa.
6. Secretary to Governor, Khyber Pakhtunkhwa.
7. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
8. All Divisional Commissioners in Khyber Pakhtunkhwa.
9. Accountant General, Khyber Pakhtunkhwa.
10. All Political Agents in Khyber Pakhtunkhwa.
11. PS to Chief Secretary, Khyber Pakhtunkhwa.
12. PS to Secretary Establishment, E&A Department.
13. PS to Special Secretary (Reg.)/ P.A. to Addl. Secretary (Estt.)/ Section- Officer (Secret)/Director Protocol/Librarian, E&A Deptt.
14. Officers concerned.
15. Controller, Govt. Printing Press, Peshawar.


(ZUBAIR AHMAD)

SECTION OFFICER (E-I)
PHONE & FAX # 091-9210529

ZIA.UL.HAQ/**

PESHAWAR.

23-11-2011
23-12-1 }
23-1-2 }
23-2-3 }
28-3-30 }
2011

BEFORE THE HON'BLE CHIEF MINISTER, KHYBER
PAKHTUNKHWA

REVIEW PETITION

UNDER


RULE 17(1) OF THE KHYBER PAKHTUNKHWA
GOVERNMENT SERVANTS (EFFICIENCY & DISCIPLINE) RULES, 2011,
AND
RULE 3 (1) OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS
(APPEAL) RULES, 1986.

AGAINST

NOTIFICATION NO. SO-(E-I) ES&AD/2001, DATED 27.10.2011. OF
THE GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT
DEPARTMENT

THROUGH

THE PRINCIPAL SECRETARY TO CHIEF MINISTER, CHIEF MINISTER'S
SECRETARIAT, PESHAWAR.


(THE PETITIONER)
SULTAN MAHMOOD KHATTAK,
MEMBER
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

23-11-2011
23-12-09
23-1-09 }
23-2-09 }
23-3-09 }
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**BEFORE THE HON'BLE CHIEF MINISTER, KHYBER
PAKHTUNKHWA**

THE REVIEWING AUTHORITY UNDER

- 1. RULE 17(1) OF THE KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY & DISCIPLINE) RULES, 2011 (ANNEXURE-A); AND
- 2. RULE 3 (1) OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPEAL) RULES, 1986 (ANNEXURE-B).

Subject:- REVIEW PETITION AGAINST THE NOTIFICATION NO.SO(E-I) E&AD/5-1/2001, DATED 27.10.2011 OF THE GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT & ADMINISTRATION DEPARTMENT WHEREBY PROMOTION OF THE APPELLANT, BEING SENIOR OFFICER IN BPS-20.OF THE PROVINCIAL SECRETARIAT GROUP HAS BEEN WITHHELD AND AN OFFICER, MRS. RUKHSANA REHMAN (S.NO.1 OF PARA-1) OF THE NOTIFICATION) JUNIOR TO HIM HAS BEEN PROMOTED TO BPS-21 ON REGULAR BASIS (ANNEXURE-C) IN VIOLATION OF THE LAW, FACTS AND NATURAL JUSTICE.

PRAYER

- “(a) The Hon'ble Chief Minister, Khyber Pakhtunkhwa may very kindly be pleased to accept the instant review petition and the notification dated 27.10.2011 of the Government of Khyber Pakhtunkhwa, Establishment Department amended and modified to the extent that the petitioner promoted to BPS-21 w.e.f. 27.10.2011 alongwith all back/consequential benefits;
- (b) In view of para-6 of the facts read with para (b) of the grounds of the instant petition, the petitioner may also be *allowed* promotion to BPS-21 w.e.f 21.3.2009; and
- (c) Any other relief to which the petitioner is entitled and has not been claimed may also be very graciously granted in view of the circumstances of the case.”

RESPECTFULLY SHEWETH

Brief facts of the case are as under:-

FACTS

1. The petitioner was appointed as Section Officer (Annexure-D) under the West Pakistan Secretariat (Section Officer) Service Rules, 1962. These rules have since been replaced through Khyber Pakhtunkhwa, Provincial Civil Servants (Secretariat Group) Rules, 1997 (Annexure-E). The same have also been replaced with the Khyber Pakhtunkhwa, Provincial Management Service Rules, 2007 (Annexure-F). According to Rule-8 of the said Rules, the petitioner for the purpose of promotion is still to be regulated through the Khyber Pakhtunkhwa, Provincial Civil Servants (Secretariat Group) Rules, 1997 till retirement. After serving for more than 26 years in BPS-17, 18 and 19, the petitioner was posted as Secretary Zakat and Social Welfare Department in his own pay and scale (Annexure-G). The petitioner was promoted to BPS-20 on regular basis vide notification dated 23.4.2007 and continued to work as Secretary, Zakat & Social Welfare Department (Annexure-H).
2. On 18.5.2007, the petitioner was posted as OSD, E&AD/Member Service Tribunal, Peshawar (Annexure-I) and took over charge as such on 25.5.2007 (Annexure-J). While working as such, the petitioner was nominated for the 89th National Management Course w.e.f. 1.9.2008 till 31.1.2009 (five months) and qualified. Copies of notification and certificate are at annexure-K and L. After successful completion of the said training course, the petitioner was again posted as Member, Service Tribunal (Annexure-M).
3. According to Section 9 of the Khyber Pakhtunkhwa, Civil Servants Act, 1973 (Annexure-N), a civil servant possessing such minimum qualification as may be prescribed shall be eligible for promotion to a higher post for the time being reserved under the rules for departmental promotion in the service or cadre to which he

belongs. The minimum qualification for appointment against the post in BPS-21 of the Secretariat Group has been prescribed under Rule 9 (b) of the Khyber Pakhtunkhwa, Provincial Civil Service (Secretariat Group) Rules, 1997 (Annexure-E) reproduced here as under:-

" 9(a).....

(b) Promotion to the post in BPS-21 shall be on the basis of seniority/fitness from amongst the officers holding posts in BPS-20 who have completed the minimum length of service as prescribed by the government."

4. According to Section 8(5) of the Khyber Pakhtunkhwa Civil Servants Act, 1973, the appointing authority shall revise and notify the seniority list of the officers/officials of the same cadre or grade once in the calendar year, preferably in the month of January (Annexure-N). The petitioner has been promoted to B-20 on 23.4.2007 but since then no such seniority list furnished to the petitioner. A request for provision of certain documents including copies of seniority lists since 2007 of the Secretariat Officers in BPS-20 has been made to the Section Officer (E-I), Establishment & Administration Department on 29.10.2011 (Annexure-O) but the same have not been provided till filing of the instant review petition.

*
Revised only list for
2010 as stood on
March 8, 2010
on 23-12-2011

5. The petitioner is senior to Mrs. Rukhsana Rehman as he has joined the service on 7.1.1980 whereas Mrs. Rukhsana Rehman has joined the service on 24.8.1981. According to the seniority of BPS-19 officer of the Secretariat Group, the petitioner is at S.No.7 and Mrs. Rukhsana Rehman is at S.No.10 (Annexure-P). The petitioner has more than 30 years of service in BPS-17 and above. The petitioner in BPS-20 is senior to Mrs. Rukhsana Rehman.

6. After successfully qualifying and on returned from the National Management Course, the petitioner on 31.3.2009 filed an application for promotion to BPS-21 with the Chief Secretary,

Khyber Pakhtunkhwa, Peshawar (Annexure-Q) that vacancy in BPS-20 was available due to retirement of Mr. Ziaur Rahman (PCS SG BPS-21) (Annexure-R) and the petitioner was the only eligible candidate for promotion at that time but with no response.

7. Despite the fact that the petitioner is the senior most officer in BPS-20 of the Khyber Pakhtunkhwa Secretariat Group, having more than 30 years of service in BPS-17 and above and qualified the required training is fully eligible for promotion to the post in BPS-21 in his cadre, the Government of Khyber Pakhtunkhwa, Establishment & Administration Department vide notification dated 27.10.2011 (Annexure-C), has withheld promotion of the petitioner and an officer, Mrs. Rukhsana Rehman, junior to him, has been promoted and no reason whatsoever intimated to the petitioner as to why he has not been promoted.
8. The petitioner has reached the ceiling/maximum of BPS-20. Copy of the pay slips for the months of September & October, 2011 (Annexure-S) and ceiling/maximum of BPS-20 is at Annexure-T. If not promoted/elevated to BPS-21 before 1.12.2011 or not awarded annual increment on 1.12.2011, the petitioner would continue to draw his pay in BPS-20 at the said ceiling/maximum with no financial benefit after 30.11.2011, which would be a recurring and irreparable loss to him.
9. Withholding of promotion or unfitness for promotion or financial advancement are penalties under Rule 4 (1)(a)(ii) of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 (Annexure-A) and a penalty on a government servant cannot be imposed without adopting proper procedure as prescribed under Section 16 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Annexure-N).
10. The petitioner has been provided an opportunity to file review petition direct to the Hon'ble Chief Minister under Rule 17(1) and

2(1)(b) of the Government Servants (E&D) Rules, 1973²⁰¹¹ and the Hon'ble Chief Minister under ^{Rule} 17 (2) of the said rules (Annexure-A) may pass such order thereon as he may consider fit. Moreover, the petitioner can also file the review petitioner under Rule 3(1) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 and the Hon'ble Chief Minister after such determination as required under the rule 5(1) of the said Rules (Annexure-B) may pass such order as he thinks proper. Hence the instant review petition inter-alia on the following grounds.

GROUNDS

- (a) That the petitioner has not been treated in accordance with the law. The notification dated 27.10.2011 to the extent of the petitioner is illegal, without lawful authority, unwarranted, mala fide, discriminatory and void ab-initio, hence not sustainable in the eyes of law. If not amended/modified properly to the extent of petitioner as prayed for, his service career including seniority and pay structure, would be adversely affected which would be a recurring and irreparable loss to him.
- (b) Being the senior most in his cadre in BPS-20, having the prescribed length of service and qualified the National Management Course, the petitioner is eligible for promotion to BPS-21 since 1.2.2009, the date, when the appellant returned from National Management Course and was the only eligible officer of the Secretariat Group in BPS-20 for promotion to BPS-21 at that time.
- (c) That the order is in clear violation of Section-9 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, Rule 7 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and Rule 9(b) of the Khyber Pakhtunkhwa PCS (Secretariat Group) Rules, 1997.

(B-21)
and post available
due to retirement
of Mr. Zia ur Rehman
on 21-3-2009.

- (d) That Withholding of promotion or unfitness for promotion or financial advancement are penalties under Rule 4 (1)(a)(ii) of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 and penalties on a government servant cannot be imposed without adopting the procedure as prescribed under Section 16 of the Khyber Pakhtunkhwa Civil Servants Act, 1973.
- (e) The aforementioned notification has been issued under the authority of "Government of Khyber Pakhtunkhwa." There is no such provision in the law either in the Civil Servants Act, 1973 or Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. According to Rule 2(a) of the said rules, it is the appointing authority who makes appointment to a post and not the Government of Khyber Pakhtunkhwa. In case of posts in BPS-21, the appointing authority as provided in Rule 4 thereof, is the Hon'ble Chief Minister, Khyber Pakhtunkhwa. The Term "Government of Khyber Pakhtunkhwa" has not been mentioned as the appointing authority for the civil servant in BPS-21; hence to the extent of the petitioner the impugned notification is without lawful authority, illegal and void, ab-initio, hence not sustainable in the eyes of law.
- (f) That the petitioner has not been intimated any reason as to why he has not been promoted to BPS-21 alongwith officers junior to him in his cadre. This is clear violation of Section 24-A(2) of the General Clauses Act, 1897 (Annexure-V). It has been held by the august Supreme Court of Pakistan in 1991 SCMR-2330(e), that in case of Departmental proceedings whether original, review, representational or appellate, and rejection, even if it was not a mandate by any law that the officer concerned should be informed about the reasons which prevailed with the Authority concerned, it would not be illegal either to give reasons; at least, from now onward---Such rule being the judgment of Supreme Court on a legal question, the same would be observed as a declared law." (Annexure-W).

- (g) The service record of the petitioner is clear and no disciplinary action is pending or in process against him. Nothing in this respect has been intimated to him so far. The said act of the Establishment Department of not promoting the petitioner to BPS-21 is in arbitrary and capricious manner and based on supposition, conjecture, surmises instead of true facts, hence need to be amended/modified as prayed for.
- (h) That the appellant has not been given a chance of personal hearing as provided under rule 15 of the Khyber Pakhtunkhwa Government Servants (E&AD) Rules, 2011. (Annexure-A). Therefore, he has been deprived of the rule "Audi Alteram Partem"(no one should be condemned unheard). Moreover as reported in the 1999-SCMR-2203, the Maxim "Audi Altram Partem" is not confined to proceedings which are judicial in form but extended to all proceedings, by whomsoever held, which may affect the person or property or other rights of the party concerned in the dispute. (Annexure-X).
- (i) Promotion of the petitioner has been withheld without adopting proper procedure as prescribed under the law, hence the said act of the Establishment Department is void ab-initio and in clear violation of Section 16 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 which provides that a civil servant is liable to prescribed disciplinary action and penalty in accordance with the prescribed procedure. The procedure has been prescribed in the Rules 3, 5, 7, and 10, 11, 12 and 14 and 15 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011.
- (j) That the said act of the Establishment Department is in violation of Article 4 of the Constitution of Islamic Republic of Pakistan that every citizen has full protection of law and to be treated in accordance with law. No adverse action against any person shall be taken except in accordance with the law.

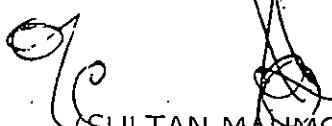
(k)

The said act of the Establishment Department is also in violation of Articles 25 and 27 of the Constitution of Islamic Republic of Pakistan that all citizens are equal before law and are entitled to equal protection of law. No citizen otherwise qualified for appointment in the service of Pakistan/province shall be discriminated whatsoever.

- (i) That there are clear cut vacancies available at various stages due to retirement of Mr. Ziaur Rahman (PCS SG BS-21), Qazi Hifzur Rahman (PCS SG BS-21), Mr Khushdil Khan (PCS SG BS-21) and any special vacancy in the share of the PCS, Secretariat Group.
- (m) The petitioner wants to be heard in person if so allowed by the Hon'ble Chief Minister as provided under rule 5(1) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 (Annexure-B).
- (n) So are the situation, therefore, intervention of the Hon'ble Chief Minister Khyber Pakhtunkhwa is necessary as provided under Rules 17 (2) of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 and Rule 5(1) of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986.

11. In view of the above, it is requested that the Hon'ble Chief Minister, Khyber Pakhtunkhwa may very kindly be pleased to accept the instant review petition as prayed for.

Yours obediently,


(SULTAN MAHMOOD KHATTAK)
THE PETITIONER

MEMBER 23-11-2011
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

47

Copy forwarded for information and necessary action to:-

1. The Hon'ble Chief Minister, Khyber Pakhtunkhwa through the Principal Secretary to Chief Minister, Chief Minister Secretariat, Peshawar.
2. The Chief Secretary to Government of Khyber Pakhtunkhwa, Peshawar.
3. The Secretary to Governor, Governor Secretariat Khyber Pakhtunkhwa, Peshawar.
4. The Secretary to Government of Khyber Pakhtunkhwa, Establishment & Administration Department, Peshawar.
5. The Section Officer (E-I), Government of Khyber Pakhtunkhwa, Establishment and Administration, Peshawar.
6. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

NO. 1512-17/S.T.

dt. 23-11-2011



(SULTAN MAHMOOD KHATTAK)
MEMBER

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

23-11-2011

R 4

GOVERNMENT OFFICE
ACCOUNTS SECTION
DISTRICT AS NUFF PASS
PAYROLL SYSTEM

34

(A)

Pers # 0001490
Name: SULTAN, HAMMOOD KHATTAK
DSC: MEMBER
NIC No: 173011590119

PAYMENT ADVISE
P Sec: 005 Nonch September 2011
PR4024 - CHAIRMAN NUFF SERVICE TRIB
Min: Administration & Estate
MNR: 1080002745
GPF #: GA 010867
OIL #: 99990255834

PAYS AND ALLOWANCES
9001-Basic Pay
0010-Qualification Pay
1518-Entertainment Allowance
1540-Ordinary Allowance
1549-Senior Post Allowance
1947-Medical Allow 15% (18-23)
1948-Adhoc Allowance 20100 50%
1970-Adhoc Relief Allow 2011

DEPTT CODE	PR4024
	58,900.00
	17,000.00
	600.00
	3,000.00
	1,100.00
	6,673.00
	22,242.00
	6,673.00
	110,182.00
TAX: (3609)	12,723.00
Subrc	4,176.00
	250.00
	52.00
	479.00
	3,445.00

Gross Pay and Allowances
DEDUCTIONS:
IT Payable 101,799.04
GPF Balance 197,245.00
3501-Benevolent Fund
3511-Addl Group Insurance
3604-Group Insurance
3620-House Rent Deduction 5%

9/2011

1996 - Sal. Mt. @ 30% = 12,096/-
Less Deductions
(Interest)

QUALIFYING SERVICE
YRS: 31
MON: 07
31 Years 07 Months 07 Days

NET AMOUNT PAYABLE 39,043.00
LFF Code: NPL
PL500100004969-E

Appellant. After hearing the appeal and revision, both were dismissed vide judgment and

GOVERNMENT OFFICE
ACCOUNTS SECTION
DISTRICT AS NUFF PASS
PAYROLL SYSTEM

PAYMENT ADVISE
P Sec: 005 Nonch September 2011
PR4024 - CHAIRMAN NUFF SERVICE TRIB
Min: Administration & Estate
MNR: 1080002745
GPF #: GA 010867
OIL #: 99990255834

Pers # 0001490
Name: SULTAN, HAMMOOD KHATTAK
DSC: MEMBER
NIC No: 173011590119

PAYS AND ALLOWANCES
9001-Basic Pay
0010-Qualification Pay
1518-Entertainment Allowance
1540-Ordinary Allowance
1549-Senior Post Allowance
1947-Medical Allow 15% (18-23)
1948-Adhoc Allowance 20100 50%
1970-Adhoc Relief Allow 2011

DEPTT CODE	PR4024
	58,900.00
	17,000.00
	600.00
	3,000.00
	1,100.00
	6,673.00
	22,242.00
	6,673.00
	110,182.00
TAX: (3609)	12,723.00
Subrc	4,176.00
	250.00
	52.00
	479.00
	3,445.00

Gross Pay and Allowances
DEDUCTIONS:
IT Payable 101,799.04
GPF Balance 197,245.00
3501-Benevolent Fund
3511-Addl Group Insurance
3604-Group Insurance
3620-House Rent Deduction 5%

10/2011

QUALIFYING SERVICE
YRS: 31
MON: 07
31 Years 07 Months 07 Days

NET AMOUNT PAYABLE 21,145.00
LFF Code: NPL
PL500100004969-E

of the lapse of 91 days.

**ANNEX TO FINANCE DEPARTMENT'S LETTER NO.FD (PRC) 1-1/2011
DATED 14th JULY, 2011**

Existing Basic Pay Scales - 2008					Adjusted Basic Pay Scales - 2011				
BPS	MIN	INCR	MAX	STG	BPS	MIN	INCR	MAX	STG
1	2,970	90	5,670	30	1	4,800	150	9,300	30
2	3,035	100	6,035	30	2	4,900	170	10,000	30
3	3,140	120	6,740	30	3	5,050	200	11,050	30
4	3,240	140	7,440	30	4	5,200	230	12,100	30
5	3,340	160	8,140	30	5	5,400	260	13,200	30
6	3,430	175	8,680	30	6	5,600	290	14,300	30
7	3,530	190	9,230	30	7	5,800	320	15,400	30
8	3,665	210	9,965	30	8	6,000	350	16,500	30
9	3,820	320	10,720	30	9	6,200	380	17,600	30
10	3,955	260	11,755	30	10	6,400	420	19,000	30
11	4,115	275	12,365	30	11	6,600	460	20,400	30
12	4,355	310	13,655	30	12	7,000	500	22,000	30
13	4,645	340	14,845	30	13	7,500	550	24,000	30
14	4,920	380	16,320	30	14	8,000	610	26,300	30
15	5,220	420	17,820	30	15	8,500	700	29,500	30
16	6,060	470	20,160	30	16	10,000	800	34,000	30
17	9,870	740	24,650	20	17	16,000	1200	40,000	20
18	12,910	930	31,570	20	18	20,000	1500	50,000	20
19	19,680	970	39,080	20	19	31,000	1600	63,000	20
20	23,345	1,510	44,485	14	20	36,000	2,350	68,900	14
21	25,880	1,700	49,680	14	21	40,000	2,600	76,400	14
22	27,680	1,985	55,470	14	22	43,000	3,050	85,700	14

ANITA KHEMAN
Senior Joint Secretary
Establishment Division

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Serice Tribunal Peshawar.

Sultan Mehmood Khattak (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Govt. of KPK etc. (Respondent)
(Defendant)

I/We Sultan Mehmood Khattak (Appellant)

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar,** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20


(CLIENT)

ACCEPTED


M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

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

Deputy Secretary (Estab:)
Estab: & Admn: Department

Ps/Secy Estab: N.W.F.P.

No. 773

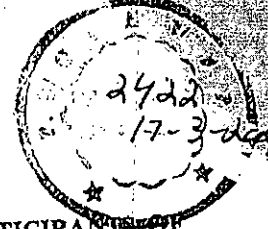
Diary No. 2435

Date 18-3-09

Date 17-3-09

IMMEDIATE
BY UMS/CONFIDENTIAL

GOVERNMENT OF PAKISTAN
CABINET SECRETARIAT
ESTABLISHMENT DIVISION
ISLAMABAD



Subject: - TRAINING REPORTS IN RESPECT OF PARTICIPANTS OF 89TH NATIONAL MANAGEMENT COURSE HELD AT NATIONAL MANAGEMENT COLLEGE, LAHORE.

Please find enclosed Training Reports (in original) in respect of the following officers, belonging to the services of Government of NWFP, who attended the 89th National Management Course at National Management College, Lahore for information and further necessary action:-

1.	Mr. Sultan Mahmood Khattak.
2.	Mr. Waqar Ayub

2. Please acknowledge the receipt.

(Encl:-In original)

(Signature)
(S. M. Tahir)
Joint Secretary (T)

The Chief Secretary, Government of NWFP, Peshawar.
Establishment Division's u.o. No.1/5/2005-T-1, dated 13-3-2009.

Secret

EP/III
1873
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Secret
keep in file
sic 17/3

Chief Secretary
N.W.F.P.
Secy Estab

Secy Est:
17-03-2009

DSCE)

Confidential

NATIONAL MANAGEMENT COLLEGE



COURSE REPORT 89th NATIONAL MANAGEMENT COURSE

Name of the Participant: Mr. SULTAN Mahmood Khattak

Designation/Department: OSD/Member,
NWFP Services Tribunal,
Peshawar.

Prv. NWFP

Mr. Sultan Mahmood Khattak at a glance presents an obtuse appearance and a careless outlook. He joined the course with a very limited understanding of issues relating to public policy and its implementation. His grasp on his own service matters was modest and his awareness of the internal and external dynamics of Pakistan was weak.

During the course, he had to struggle hard to catch up with his colleagues because of his inherent capacity and knowledge deficit. As a result his learning graph during the training remained flat. With an inadequate intellectual ability, he was able to acquire only a modicum of understanding of public policy formulation and implementation at the operational level. The officer displays mediocre analytical and synthesizing skills with low-grade ability to occasionally draw just passable options from scenarios of lesser complexity. His limited vision, lack of exposure and inability to work hard limited his capacity to gain from the learning opportunities offered to him during the course. His communication skills

PTO

Confidential

Confidential

improved from weak to moderately satisfactory level, but he needs to be much more articulate and focused in his speech and his presentations. His writing skills are more ineffectual than his oral communication skills and showed little if any improvement. His interpersonal skills are hampered by his lack of sophistication. Accordingly, his peers have rated him near the bottom of the course which is quite in line with his demonstrated performance.

Mr. Sultan shows very limited potential for further progression in his career and is considered suitable for appointment on routine assignments, under supervision, within his own service group.

Grade: Average

Percentage: 50%

Present Appointment Potential:

<input checked="" type="checkbox"/> Within own service	<input type="checkbox"/> Outside own Service
--	--

Promotion Potential:

<input checked="" type="checkbox"/> Very Good	<input type="checkbox"/> Good	<input type="checkbox"/> Limited
---	-------------------------------	----------------------------------

Employment after promotion:

<input checked="" type="checkbox"/> Within own service	<input type="checkbox"/> Outside own Service
--	--

Instructional Potential: *Fit to be employed as faculty at:*

- | | | | |
|--|------------------------------|-----------------------------------|--|
| i) Own Service Institutes. | <input type="checkbox"/> Yes | <input type="checkbox"/> Possible | <input checked="" type="checkbox"/> No |
| ii) Civil Services Academy. | <input type="checkbox"/> Yes | <input type="checkbox"/> Possible | <input checked="" type="checkbox"/> No |
| iii) National Institute of Management. | <input type="checkbox"/> Yes | <input type="checkbox"/> Possible | <input checked="" type="checkbox"/> No |
| iv) National Management College. | <input type="checkbox"/> Yes | <input type="checkbox"/> Possible | <input checked="" type="checkbox"/> No |

Dean

Signature

Date:

[Signature]
RAHAT-UL-AIN

Original

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

Service Appeal No. 422/2012

Sultan Mehmood Khattak, Member Khyber Pakhtunkhwa, Service Tribunal -----

(Appellant)

VERSUS

1. Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Chief Secretary, Government of Khyber Pakhtunkhwa.
3. Secretary to Govt: of Khyber Pakhtunkhwa Establishment Department, Peshawar.
4. Section Officer (E-I), Establishment & Administration Department, Govt of Khyber Pakhtunkhwa.

(Respondents)

INDEX

S #.	DESCRIPTION OF DOCUMENTS	ANNEXURES	PAGE
1.	Parawise Comments	-	
2.	Instruction.	A	1-5
3.	Seniority list issued on 3.12.2008	B	6
4.	Seniority list issued on 14.6.2010	C	7-9
5.	<i>Section 12 (III) of Promotion Policy 2009</i>	D	10-11
6.	Promotion policy 2009	E	12-20

(1)

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

Service Appeal No. 422/2012

Sultan Mehmood Khattak, Member Khyber Pakhtunkhwa, Service Tribunal -----

(Appellant)

VERSUS

1. Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Chief Secretary, Government of Khyber Pakhtunkhwa.
3. Secretary to Govt: of Khyber Pakhtunkhwa Establishment Department, Peshawar.
4. Section Officer (E-I), Establishment & Administration Department, Govt of Khyber Pakhtunkhwa.

(Respondents)

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1&4

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:-

- (1) That the applicant has got no locus standi to file the instant appeal.
- (2) That the appellant has got no cause of action.
- (3) That the application is baseless and has no weight in the eyes of law.
- (4) That the Petitioner has not come to this Hon'ble Tribunal with clean hands and has concealed material facts.
- (5) According to section 4(b)(i) of Khyber Pakhtunkhwa Service Tribunal Act, 1974, appeal shall lie to the said tribunal against an order or decision of a departmental authority relating to promotion of a civil servant.
- (6) According to section 22 of Khyber Pakhtunkhwa Civil Servants Act, 1973, no representation shall lie on matters like suitability of a person against a particular post or to be promoted to higher post or grade.

- (9)
- (7) Section 12(2) of Civil Procedure Code (CPC) also provides that there is no jurisdiction of Service Tribunal in the matter.
- (8) That the appeal is not maintainable and time barred.

PARA-WISE COMMENTS

ON FACTS

- Para-1 Pertains to record hence no comments.
- Para-2 As above.
- Para-3 Pertains to record.
- Para-4 As laid incorrect. Successful completion of mandatory training is only a condition out of certain conditions such as good PERs, Seniority-cum-fitness, Educational qualifications, professional skills, experience in the relevant field, good reputation, honesty, administrative and executive experience in case of administrative and executive posts and ability of shouldering higher responsibility(Annex-A). According to seniority lists issued on 3.12.2008 the appellant was at S.No.8 and at SNo.5 in Final seniority list issued on 14.6.2010 (Annex-B&C), therefore the application could not be processed. Moreover, three of the aspects of performance i.e. moral integrity, intellectual integrity, quality and output of work of the officer are also considered by PSB while making overall assessment of the officer for promotion.
- Para-5 As explained above seniority is not the sole criteria for promotion. Provincial Selection Board in its meeting held on 13.10.2011 considered the promotion of the certain officers including the appellant and superseded the appellant as his Efficiency Index was below the threshold required for promotion as provided under section III (iii) of promotion policy 2009 and recommended next eligible officer on the panel for promotion (Annex-D). PSB also

takes into account the performance of officer in mandatory training pre-requisite for promotion to next higher grade. The officer has been rated very low by the Administrative Staff College, Lahore (National Management College) with the observation that officer has very limited potential for further progression in his career. Moreover, his appointment on routine assignments should be under supervision within his own service group. Being a BPS-20 officer no one can be promoted under supervision in BPS-21. BPS-20 and BPS-21 are strategic positions in the Civil Service of Province and an officer on these positions should have commanding position having sound leadership qualities.

Para-6

As explained vide para-4 & 5 above.

Para-7

As laid incorrect. Section 22 of Civil Servant Act, 1973 provides that no representation shall lie on matter relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post. However the representation of the appellant was processed and submitted for order of the competent authority and was filed as the promotion of the appellant was considered and decided under the relevant rules:-

ON GROUNDS:-

A

As laid incorrect. The appellant was considered for promotion to BS-21 for promotion and superseded under Section III(iii) of the promotion policy 2009(Annex-D) by PSB as his Efficiency Index was below the threshold required for promotion to B-21.

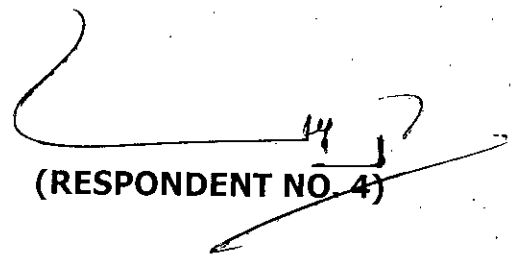
- B Incorrect, as explained above.
- C As laid incorrect. Promotion case of appellant was considered and dealt with under relevant existing rules framed under Civil Servant Act 1973.
- D As stated by the appellant t promotion to BS-21 shall be on the basis of seniority list/fitness from against the officer holding post in BS-20 and completed required length of service. The PSB considered the promotion of senior most officers on the panel and consider respondent 6 as fit for promotion under the prescribed rules.
- E As laid incorrect. Final seniority list of officers in BS-20 was issued one on 03.12.2008 and 14.06.210 (Annex-B&C), hence the plea of the appellant is not correct.
- F As laid incorrect. If the appellant was the only eligible candidate for promotion to BS-21 after retirement of Mr. Zai-ur-Rehman then he would have challenged the promotion of Mr. Muhammad Hamayun promoted to BS-21 dated 22.07.2010.
- G As stated vide para-4 &5 only good PERs record or seniority or mandatory training is not the sole criteria for promotion.
- H As laid incorrect. Reaching the maximum of pay scales does qualify the appellant for promotion to higher grade.
- I As laid incorrect. The promotion and supercession of the appellant was dealt with under the existing promotion policy and not under RSO or E&D Rules hence no question of penalty arises.
- J As stated in preceding paras.
- K As laid incorrect. The notification of the respondent No.6 is legal and issued under the relevant rules.

- L As stated in proceeding para.
- M As laid incorrect. The appeal was processed and considered by the competent authority and ordered its file.
- N As explained above.
- O As explained above.
- P Not admitted. The appellant was not proceeded or treated under E&D Rules.-
- Q As laid incorrect. Civil Servant is dealt with under Article 240-241 and rules made there under, therefore, article 4 of the article ibid does altercated in issue in hand. ove.
- R As explained above.
- S As explained vide para 4,5, & 7 above.
- T Not admitted. Only those civil servants are eligible for promotion fulfilling all the requirements as provided under relevant promotion policies/rules. As the appellant was considered and superseded in light of the existing policy/rules have no right of promotion.
- U As laid incorrect. The appellant was not eligible for promotion therefore, have no right of promotion for retrospective date.

PRAYER

It is, therefore most humbly prayed that on acceptance of these para-wise comments, the instant appeal being devoid of any merits may very graciously be dismissed.


(RESPONDENT NO. 1 & 3)


(RESPONDENT NO. 4)

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

Service Appeal No. 422/2012

Sultan Mehmood Khattak, Member Khyber Pakhtunkhwa, Service Tribunal -----


(Appellant)

VERSUS

5. Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
6. Chief Secretary, Government of Khyber Pakhtunkhwa.
7. Secretary to Govt: of Khyber Pakhtunkhwa Establishment Department, Peshawar.
8. Section Officer (E-I), Establishment & Administration Department, Govt of Khyber Pakhtunkhwa.

(Respondents)

I the undersigned do hereby solemnly affirm and declare that the contents of the above parawise comments are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon' able Tribunal.


(MUHAMMAD TAUFIQUE)
SECTION OFFICER (E-I)

حکومت صوبہ سرحد

ایڈمنسٹریشن ڈیپارٹمنٹ

(ریگولیشن ونگ)

مورخہ پشاور ۲۰ ستمبر ۲۰۰۳ء

نمبر افسر ضوابط ۶ (ای اینڈ اے ڈی) ۱۶/۲۰۰۳

بخدمت

تمام انتظامی دستوں میں حکومت صوبہ سرحد

عنوان: منتخب آسامیوں پر استحقاق کی بنیاد پر ترقی۔

جناب عالی،

شہن مشرفی سرحدی صوبہ سول سروس ایکٹ مجریہ ۱۹۷۳ء کی شق نمبر ۹ کے تحت منتخب آسامیوں پر ترقی استحقاق کی بنیاد پر کی جائے گی۔ یہ تقاضے پورے کرنے کیلئے میرٹ کے تعین کا معاملہ صوبائی حکومت کے زیر غور رہا ہے اور یہ محسوس کیا گیا کہ میرٹ کا مطلب محض اچھی سالانہ کارکردگی کی رپورٹیں نہیں بلکہ اس کے مندرجہ ذیل لوازمات بھی ہیں جو آئندہ پیش نظر رکھے جائیں۔

۱۔ تعلیمی قابلیت، پیشہ ورانہ صلاحیتیں اور متعلقہ شعبہ میں تجربہ۔

۲۔ سالانہ ضمیمہ رپورٹیں۔

۳۔ انتظامی آسامیوں کی صورت میں انتظامی تجربہ اور صلاحیت۔

۴۔ اچھی شہرت اور نیک نامی۔ (General reputation)

۵۔ ہنیاری۔

۶۔ دیانتداری

۷۔ اعلیٰ آسامیوں پر ذمہ داری نبھانے کیلئے موزونیت / اہلیت۔

۸۔ محکمانہ کارروائی کے نتیجے میں سزا کی صورت میں کارکردگی منفی تصور ہوگی اور ترقی پر اثر انداز ہوگی۔

۹۔ صوبائی سلیکشن بورڈ کی سفارشات جو اس کا اختیار ہے مندرجہ بالا عوامل کو زیر غور لاتے ہوئے مرتب ہوئیں۔

۱۰۔ محکموں سے درخواست ہے کہ وہ ورکنگ پیپر اس انداز میں پیش کریں کہ بورڈ کو مندرجہ بالا عوامل کی روشنی میں اپنی سفارشات مرتب کرنے میں کسی

آپ کا مخلص

محمد قاسم جان

(محمد قاسم جان)

سیکشن ایفیسر (ضوابط - ۶)



Annex B B

GOVERNMENT OF N.W.F.P.
ESTABLISHMENT DEPARTMENT

7

Dated Peshawar the 3rd December, 2008

NOTIFICATION

NO. SO(E-I)E&AD/5-65/2005 In pursuance of Section-8(1) of NWFP Civil Servants Act, 1973 read with Rule-17 of NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1980, Final Seniority list of Officers of PCS (Secretariat Group) BS-20, as it stood on 14th November, 2008 is notified/circulated:-

FINAL SENIORITY LIST OF OFFICERS OF PCS (SECRETARIAT GROUP) BS-20

S.#	Name of the Officer	Date of birth and Domicile	Date of 1 st entry into Govt Service	Regular appointment/Promotion to present post			Present Posting
				Date	IPS	Method of Recruitment	
1	2	3	4	5	6	7	8
1.	Mr. Shaukat Ali Mohmand	01-01-1953 (Mohmand Agy:)	19-12-1975	23.5.2002	20	By Promotion	On deputation to Federal Govt, Islamabad w.e.f 24.5.2005.
2.	Mr. Muhammad Asif Khan	01-09-1952 (Abbottabad)	01-01-1976	16.2.2007	20	-do-	Vice-Chairman, Provl: Economy Commission. (16.2.2007)
3.	Mr. Jamal-ud-Din	5-10-1955 (Dir).	26-07-1979	22.1.2004	20	-do-	Awaiting posting in E&AD
4.	Mr. Khushdil Khan	7-1-1951 (Karak).	01-03-1973	28.5.2004	20	-do-	Member (General) PIT, NWFP. (23.2.2008)
5.	Mr. Muhammad Ishfaq Khan	1-10-1955 (Swabi)	26-09-1979	8.3.2007	20	-do-	Secretary, Irrigation Deptt: (22.7.2008)
6.	Mr. Noor-ul-Haq Khan	01-01-1949 (Dir)	03-11-1965	23.12.2006	20	-do-	Member, Services Tribunal, NWFP. (12.11.2007)

Next Page-2

Encl: As above.

7.	Mr. Muhammad Humayun	1-3-1955 (Abbottabad)	26-09-1979	10.10.2006	20	By Promotion	Secretary, I.P.C Deptt: (2.6.2008)
8.	Mr. Sultan Mehmood Khattak	20-07-1954 (Karak).	07-01-1980	23.4.2007	20	-do-	OSD/on NMC Course. (1.09.2008)
9.	Mr. Abdus Samad Khan	14-7-1950 (Peshawar).	21-10-1974	23.4.2007	20	-do-	Reforms Coordinator, Finance Deptt: (2.6.2008)
10.	Sahibzada Fazal Amin	4-4-1956 (Swabi).	20-08-1981	23.12.2006	20	-do-	Secretary, Sports, Culture & Tourism Deptt: (3.4.2008)
11.	Mrs. Rukhsana Rehman.	06-04-1956 (Kohat)	24-08-1981	3.1.2007	20	-do-	On deputation to Federal Govt. 8.2.2007.
12.	Mr. Ghulam Jilani Asif	29.10. 1951 (Peshawar)	17.6. 1972	10.7.2007	20	-do-	Member (General) GIT, NWFP 30.12.2004
13.	Mr. Gul Zeb Khan	9.3. 1958 (Swabi)	26.10. 1982	10.7.2007	20	-do-	Director, S.T.I, E&AD. (2.6.2008)
14.	Mr. Muhammad Arifeen	5.6. 1957 (Nowshera)	2.7. 1983	4.12.2007	20	-do-	Secretary, Elementary & Secondary Education Deptt: (9.6.2008)
15.	Mr. Zainullah Khan	03.1. 1949 (Malakand Agency).	20.8. 1981	4.12.2007	20	-do-	Special Secy: Finance Deptt: (4.12.2007)
16.	Mr. Muhammad Nawaz Khan	4.1. 1955 (Mohmand Agency)	2.7. 1983	4.12.2007	20	-do-	Director (Finance) S.D.A. (4.12.2007)
17.	Mr. Ahmad Khan	2.8. 1955 (Peshawar)	24.4. 1976	2.6.2008	20	-do-	Special Secretary, Elementary & Secondary Education Deptt: (9.6.2008)
18.	Mr. Naeem Anjum	05.02. 1949 (Peshawar)	10.11. 1970	19.5.2008	20	-do-	Secretary, FATA Dev: Authority. (30.10.2006)

CHIEF SECRETARY
GOVERNMENT OF N-WFP

Next Page-3

Encl: As above.

9

Endst: No. & date even

Copy forwarded to the:-

1. Secretary to Governor, NWFP.
2. Principal Secretary to Chief Minister, NWFP.
3. All Administrative Secretaries to Govt of N.W.F.P.
4. PS to Chief Secretary, NWFP.
5. PS to Secretary Establishment, NWFP.
6. Officers concerned.
7. Manager, Govt Printing Press Peshawar.

3.12.08

(ABDUL JALIL)

**DEPUTY SECRETARY (ESTT)
PHONE & FAX # 091-9210529**

M. Yousuf Jatoi

J
31-12-08

In case of receipt of no response by the due date, it would be considered that particulars have been accepted as correct.

Encl: As above.

Secretary, Sports, Culture &
Tourism Deptt:
(3.4.2008)



Annex C

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

10

Dated Peshawar the 14TH June 2010

NOTIFICATION

NO. SO(E-I)E&AD/5-65/2010. In pursuance of Section-8(1) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, Final Seniority list of Officers of PCS (Secretariat Group) BS-20, as it stood on 8th March 2010 notified/circulated:-

FINAL SENIORITY LIST OF OFFICERS OF PCS (SECRETARIATS GROUP) BS-20

S.#	Name of the Officer	Date of birth and Domicile	Date of 1 st entry into Govt Service	Regular appointment/Promotion to present post			Present Posting
				Date	BPS	Method of Recruitment	
1	2	3	4	5	6	7	8
1.	Mr. Shaukat Ali Mohmand	01-01-1953 (Mohmand Agy:)	19-12-1975	23.5.2002	20	By Promotion	On deputation to Federal Govt, Islamabad w.e.f 24.5.2005.
2.	Mr. Muhammad Asif Khan	01-09-1952 (Abbottabad)	01-01-1976	16.2.2007	20	-do-	OSD E&AD (1.7.2009)
3.	Mr. Muhammad Ishfaq Khan	1-10-1955 (Swabi)	26-09-1979	8.3.2007	20	-do-	Secretary, Irrigation Deptt: (22.7.2008)
4.	Mr. Muhammad Humayun	1-3-1955 (Abbottabad)	26-09-1979	10.10.2006	20	-do-	Chairman Tanzeem Lassil-e-Wal Mahroom. (22.02.2010)
5.	Mr. Sultan Mehmood Khattak	20-07-1954 (Karak).	07-01-1980	23.4.2007	20	-do-	Member NWFP Service Tribunal (17.3.2009)
6.	Mr. Abdus Samad Khan	14-7-1950 (Peshawar).	21-10-1974	23.4.2007	20	-do-	Secretary Zakat Ushr, Deptt: (14.10.2009)
7.	Sahibzada Fazal Amin	4-4-1956 (Swabi).	20-08-1981	23.12.2006	20	-do-	Secretary, Sports, Culture & Tourism Deptt: (3.4.2008)

2-2

8.	Mrs. Rukhsana Rehman.	06-04-1956 (Kohat)	24-08-1981	3.1.2007	20	-do-	On deputation to Federal Govt. 8.2.2007.
9.	Mr. Ghulam Jilani Asif M.A. Pol. Sc: M.A. History M.A. Islamiat, LLB	29.10. 1951 (Peshawar)	17.6. 1972	10.7.2007	20	-do-	Member (General) GIT, NWFP 30.12.2004
10.	Mr. Gul Zeb Khan	9.3. 1958 (Swabi)	26.10. 1982	10.7.2007	20	-do-	Director, S.T.I, E&AD. (2.6.2008)
11.	Mr. Muhammad Arifeen	5.6. 1957 (Nowshera)	2.7. 1983	4.12.2007	20	-do-	Secretary, Elementary & Secondary Education Deptt: (9.6.2008)
12.	Mr. Muhammad Nawaz Khan	4.1. 1955 (Mohmand Agency)	2.7. 1983	4.12.2007	20	-do-	Director (Finance) S.D.A. (4.12.2007)
13.	Mr. Muhammad Younis Javed (B.Sc. Hons.) M.Sc. Geology)	1.2.57 (S.W. Agency)	10.7.83	06.01.2009	20	-do-	G.M (F&A) FDC (21.1.2010)
14.	Mr. Ahmad Khan	2.8. 1955 (Peshawar)	24.4. 1976	2.6.2008	20	-do-	OSD E&AD. (23.02.2010)
15.	Mr. Muhammad Farid Qureshi	2.9.52 (A.Abad)	15.5.73	06.01.2009	20	-do-	Special Secretary (Reg) E&AD (12.3.2009)
16.	Mr. Sajid Khan	15.4.57 (A.Abad)	02.7.83	06.01.2009	20	-do-	Secretary, E&T, Deptt: (30.8.2008)
17.	Mr. Nizami-ud-Din	02.02. 1962 (Chitral)	05.05. 1987	2.12.2009	20	-do-	OSD E&AD (3.12.2009)

CHIEF SECRETARY
GOVT: OF KHYBER PAKHTUNKHWA

Endst: No. & date even

Copy forwarded to the:-

1. Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
3. All Administrative Secretaries to Govt of Khyber Pakhtunkhwa
4. PS to Chief Secretary, Khyber Pakhtunkhwa
5. PS to Secretary Establishment, Khyber Pakhtunkhwa
6. Officers concerned.
7. Manager, Govt Printing Press Peshawar.



(ZUBAIR AHMAD)
SECTION OFFICER (ESTT-I)
PHONE & FAX # 091-9210529

Annex B D

12

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5



GOVERNMENT OF N.W.F.P.
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
ESTABLISHMENT WING

No. SOE-11 (E&AD) 1-3/2008
Dated Peshawar the 28th January, 2009

To

1. The Additional Chief Secretary, GoNWFP.
2. The Additional Chief Secretary (FATA.), Peshawar
3. The Senior Member, Board of Revenue, N.-W.F.P.
4. All Administrative Secretaries to Government of N.-W.F.P.
5. The Secretary to Governor, N.-W.F.P.
6. The Principal Secretary to Chief Minister, N.-W.F.P.
7. All Divisional Commissioners in NWFP.

Regulation
Penal Code

SUBJECT: NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS PROMOTION POLICY, 2009.

Dear Sir,

Superintendent

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

i. Length of service.

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

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

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

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

(i) Half of the service in BS-16 and one fourth in Basic Scales lower than 16, if any, shall be counted as service in Basic Scale 17.

(ii) Where initial recruitment takes place in Basic Scale 18 and 19, the length of service prescribed for promotion to higher Basic Scales shall be reduced as indicated below:

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

Section Officer E-3
Establishment Deptt.

S. B. M. M.

[Signature]

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Condition of promotion with training:

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

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

(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing Promotion Policy.

(c) The qualifying thresholds of quantification of PERs for nomination to these trainings are as under:

MCMC	60
SMC	70
NMC	75

(d) There will be no exemptions from mandatory trainings. An officer may, however, request for temporary exemption in a particular moment in time but grant of such exemption would be at the discretion of the competent authority. No such request with regard to an officer would be made by the Government Departments concerned.

(e) Three officers shall be nominated for each slot of promotion on the basis of their seniority. Those unwilling to attend will be dropped at their own expense without prejudice to the rights of others and without thwarting or minimizing the chance of improving the quality of service.

(f) Officers failing to undergo mandatory training in spite of two time nominations for a training shall stand superseded if such failure was not for the reasons beyond the control of the officers concerned.

III. Development of Comprehensive Efficiency Index (CEI) for promotion:

(a) The Comprehensive Efficiency Index to be maintained for the purpose of promotion is clarified as under:

(i) ~~The minimum of aggregate marks for promotion to various grades shall be as follows:~~

Section Officer E-3
Establishment Deptt.

Basic Scale	Aggregate marks of Efficiency Index
18	50
19	60
20	70
21	75

(ii) A panel of two senior most officers shall be placed before the Provincial Selection Board for each vacancy in respect of promotion to BS-18 & 19. Similarly, a panel of three senior most officers shall be submitted to the Provincial Selection Board for each position in respect of promotion to BS-20 and 21 and the officer with the requisite score on the Efficiency Index shall be recommended for promotion.

(iii) The senior most officer(s) on the panel securing the requisite threshold of the Efficiency Index shall be recommended by the Provincial Selection Board for promotion unless otherwise deferred. In case of failure to attain the requisite threshold, he (she)/they shall be superseded and the next officer on the panel shall be considered for promotion.

(b) Marks for quantification of PERs, Training Evaluation Reports and Provincial Selection Board evaluation shall be assigned as under:-

S. No.	Factor	Marks for promotion to BS-18 & 19	Marks for promotion to BS-20 & 21
1.	Quantification of PERs relating to present grade and previous grade(s) @ 60% : 40%	100%	70%
2.	Training Evaluation Reports as explained hereafter.	--	15%
3.	Evaluation by PSB	--	15%
	Total	100%	100%

(c) A total of fifteen (15) marks shall be allocated to the Training Evaluation Reports (Nine marks @ 60% for the training in the existing BPS and Six marks @ 40% in the preceding BS). Evaluation of the reports from the Training Institutions shall be worked out as under:-

(i) It shall be on the basis of Grade Percentage already awarded by the National School of Public Policy (National Management College and Senior Management Wing) and its allied Training Institutions as provided in their reports.

(ii) Previous reports of old Pakistan Administrative Staff College

Senior Officer E-3
Personnel Deptt.

... such percentage has been awarded

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points shall be worked out on the basis of weighted average of the percentage range of grades followed by these Institutions as reflected in table-A below:

TABLE-A
Old PASC & NIPAs

Category	Range	Weighted Average	Points of PASC @ 60%=9	Points of NIPAs @ 40%=6
A. Outstanding	91-100%	95.5%	8.60	5.73
B. Very Good	80-90%	85%	7.65	5.10
C. Good	66-79%	72.5%	6.52	4.35
D. Average	50-65%	57.5%	5.17	3.45
E. Below Average	35-49%	42%	3.78	2.52

(iii) Grades from National Defence University will be computed according to the weighted average based on the Grading Key for the range provided by the NDU as reflected in Table-B below:

TABLE-B
NATIONAL DEFENCE UNIVERSITY

Category	Range	Weighted Average	Points @ 60%=9
A. Outstanding	76-100%	88%	7.92
B-Plus. Very Good	66-75.99%	71%	6.39
B- High. Good	61-65.99%	63.5%	5.71
B-Average. Average	56-60.99%	58.5%	5.26
B-Low. Below Average	51-55.99%	53.5%	4.81
B-Minus. Below Average	46-50.99%	48.5%	4.36
C. Below Average	40-45.99%	43%	3.87
F. Below Average	35-39.99%	37.5%	3.37

(d) The officers who have been granted exemption from mandatory training having attained the age of 56 years or completed mandatory period of serving in a Training Institution upto 27-12-2005, may be awarded marks on notional basis for the training factor (for which he/she was exempted) in proportion to the marks obtained by them in the PERs.

(e) Status quo shall be maintained in respect of officers of special cadres such as teachers, doctors, professors, research scholars and incumbents of technical posts for promotion within their own line of speciality. However, for calculation of their CEI, 70% marks shall be assigned to the quantified score of PER s and 30% marks shall be at the disposal of the PSR

Section Officer E-3
Establishment Deptt.

(16) (4)

(f) For promotion against selection posts, the officer on the panel securing maximum marks will be recommended for promotion. Thirty marks placed at the disposal of the Provincial Selection Board in such cases shall be awarded for technical qualification, experience and accomplishments (research publications relevant to the field of specialism).

(g) Since three of the aspects of performance i.e. moral integrity, intellectual integrity, quality and output of work do not figure in the existing PER forms, the grades secured and marks scored by the officer in overall assessment shall be notionally repeated for the other complementary evaluative aspects and form the basis of quantification.

(h) The performance of officers shall be evaluated in terms of the following grades and scores:

		<u>Upto 11th June, 2008</u>	<u>From 12th June, 2008</u>
1.	Outstanding	--	10 Marks
2.	Very Good	10 marks	8 marks
3.	Good	7 marks	7 marks
4.	Average	5 marks	5 marks
5.	Below Average	1 mark	1 mark

(i) The outstanding grading shall be awarded to officers showing exceptional performance but in no case should exceed 10% of the officers reported on. The grading is not to be printed in the PER form but the reporting officer while rating an officer as "outstanding" may draw another box in his own hand in the form, initial it and write outstanding on the descriptive side. Convincing justification for the award shall be recorded by the reporting /countersigning officer. The discretion of awarding "outstanding" is to be exercised extremely sparingly and the award must be merited.

(j) The quantification formula and instructions for working out quantified score are annexed.

IV. Promotion of officers who are on deputation, long leave, foreign training:

- a) The civil servants who are on long leave i.e. one year or more, whether within or outside Pakistan, may be considered for promotion on their return from leave after earning one calendar PER. Their seniority shall, however, remain intact.

Section Officer E-3
Establishment Deptt.

S. S. Khan

- 17
- b) The civil servants who are on deputation abroad or working with international agencies within Pakistan or abroad, will be asked to return before their cases come up for consideration. If they fail to return, they will not be considered for promotion. They will be considered for promotion after earning one calendar PER and their seniority shall remain intact.
- c) In case of projects partially or fully funded by the Federal or Provincial Government, where PERs are written by officers of Provincial Government, the condition of earning one calendar PER shall not be applicable to officer on deputation and the officer on return to his/her cadre shall be considered for promotion.
- d) The civil servants on deputation to Federal Government, Provincial Government, autonomous/semi-autonomous organization shall be considered for promotion and informed to realize their promotion within their cadres. They shall have to stay and not be allowed to go back immediately after promotion. Such stay shall be not less than a minimum of two years. If he/she declines his/her actual promotion will take place only when he/she returns to his/her parent cadre. His/her seniority in the higher post shall, however, stand protected.
- Department → e) The cases of promotion of civil servants who have not successfully completed the prescribed mandatory training (MCMC, SMC & NMC) or have not passed the departmental examination for reasons beyond control, shall be deferred.
- f) Promotion of officers still on probation after their promotion in their existing Basic Scales shall not be considered.
- g) A civil servant initially appointed to a post in a Government Department but retaining lien in a department shall not be considered for promotion in his parent department. However, in case he returns to parent department, he would be considered for promotion only after he earns PER for one calendar year.
- h) A civil servant who has resigned shall not be considered for promotion no matter the resignation has yet to be accepted.

→ V. Deferment of Promotion:

(a) Promotion of a civil servant will be deferred, in addition to reasons given in para-IV, if

(i) His inter-se-seniority is disputed/sub-judice.

Section Officer E-3
Establishment

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- (ii) Disciplinary or departmental proceedings are pending against him.
 - (iii) The PER dossier is incomplete or any other document/ information required by the PSB/DPC for determining his suitability for promotion is not available for reasons beyond his control.

→ (b) The civil servant whose promotion has been deferred will be considered for promotion as soon as the reasons for deferment cease to exist. The cases falling under any of the above three categories do not warrant proforma promotion but the civil servant will be considered for promotion after determining his correct seniority over the erstwhile juniors.

(c) If an officer is otherwise eligible for promotion but has been inadvertently omitted from consideration in the original reference due to clerical error or plain negligence and is superseded, he should be considered for promotion as soon as the mistake is noticed.

→ (d) If and when an officer, after his seniority has been correctly determined or after he has been exonerated of the charges or his PER dossier is complete, or his inadvertent omission for promotion comes to notice, is considered by the Provincial Selection Board/ Departmental Promotion Committee and is declared fit for promotion to the next higher basic scale, he shall be deemed to have been cleared for promotion alongwith the officers junior to him who were considered in the earlier meeting of the Provincial Selection Board/Departmental Promotion Committee. Such an officer, on his promotion will be allowed seniority in accordance with the proviso of sub-section (4) of Section 8 of the North-West Frontier Province Civil Servants Act, 1973, whereby officers selected for promotion to a higher post in one batch on their promotion to the higher post are allowed to retain their inter-se-seniority in the lower post. In case, however, the date of continuous appointment of two or more officers in the lower post/grade is the same and there is no specific rule whereby their inter-se-seniority in the lower grade can be determined, the officer older in age shall be treated senior.

→ (e) If a civil servant is superseded he shall not be considered for promotion until he earns one PER for the ensuing one full year.

(f) If a civil servant is recommended for promotion to the higher basic scale/post by the PSB/DPC and the recommendations are not approved by the competent authority within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

Section Officer E-3
Establishment Deptt.

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VI. Date of Promotion:

Promotion will always be notified with immediate effect.

VII. Notional Promotion:

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

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

(a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.

(b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

IX. Promotion in case of pending investigations by NAB:

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

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

Yours faithfully,

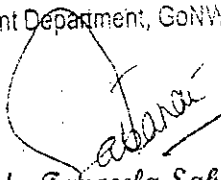
Amir 28 Jan, 09

(MUHAMMAD ABID MAJEED)
Special Secretary (Regulations)

90

Copy forwarded to

1. The Accountant General, NWFP, Peshawar.
2. The Registrar, Peshawar High Court, Peshawar.
3. The Director, Staff Training Institute, E&A Department, Peshawar.
4. All Additional Secretaries in E&A Department, GoNWFP.
5. Reforms Coordinator, Reforms Cell, E&A Department.
6. All Deputy Secretaries in E&A Department, GoNWFP.
7. The Secretary, NWFP Public Service Commission, Peshawar.
8. The Director, Anti-Corruption Establishment, N.-W.F.P., Peshawar.
9. The Registrar, NWFP Service Tribunal, Peshawar.
10. All Section Officers in E&A Department, GoNWFP.
11. Private Secretary to Chief Secretary, N.-W.F.P.
12. Private Secretary to Secretary, Establishment Department, GoNWFP.
13. Librarian, E&A Department.

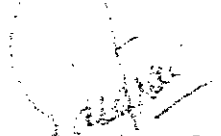

(Syeda Tanzeela Sabhat)
Section Officer (E-III)

Endst: No. SOE-III(E&AD)1-3/2008

Dated Peshawar the 28th January, 2009

Copy forwarded to:

1. The Chief Secretary, Government of the Punjab, Lahore.
2. The Chief Secretary, Government of Sindh, Karachi.
3. The Chief Secretary, Government of Baluchistan, Quetta.


(Syeda Tanzeela Sabhat)
Section Officer (E-III)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

APPEAL NO.422/2012

Mr. Sultan Mehmood Khattak

V/S

1. Government of Khyber Pakhtunkhwa through the Chief Secretary, KPK Peshawar.
2. The Chief Secretary, Government of Khyber Pakhtunkhwa, KPK, Peshawar.
3. The Secretary, Establishment & Administration Department, Government of Khyber Pakhtunkhwa, KPK, Peshawar.
4. The Section Officer (E-I), Government of Khyber Pakhtunkhwa, Establishment & Administration Department, KPK, Peshawar.
5. The Chairman, Khyber Pakhtunkhwa Tribunal, through the Registrar, Khyber Pakhtunkhwa Tribunal, Peshawar.
6. Mrs. Rukhsana Rehman (PCS SG BS-21)

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S.No	Documents	Annexure	Page No.
1	Copy of letter No. SO (E-I) E&AD/5-75/2012 dated 18/05/2012 by Section Officer (E-I) Est. Dept. KPK	A	1
2	Copy of notice of Khyber Pakhtunkhwa Service Tribunal in Appeal No. 422/2012 issued on 03/05/2012	B	2
3	Reply/Para-wise Comments in response of the Appeal No. 422/2012	C	3-6
4	Seniority List of BS 20 officers issued vide No. SO (E-I)E&AD/5-65/2010 dated 14/06/2010 (KPK)	D	7-8
5	Promotion Policy 2009 issued vide No. SOE-III(E&AD)1-3/2008 dated 28/01/2009 KPK	E	9-19

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RESPONDENT NO. 6
RUKHSANA REHMAN

RUKHSANA REHMAN
Senior Joint Secretary
Establishment Division

MOST IMMEDIATE/COURT CASE

①
②

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT**



**No. SO (E-I) E&AD/5-75/2012
Dated Peshawar, the May 18, 2012**

To

Ms. Rukhsana Rehman (PCS SG BS-21)
Senior Joint Secretary,
Establishment Division, Cabinet Secretariat,
Islamabad.

SUBJECT: - APPEAL NO. 422/2012 SULTAN MEHMOOD KHATTAK VS CHIEF SECRETARY AND MRS. RUKHSANA REHMAN THROUGH SO (E-I) ESTABLISHMENT & ADMINISTRATION DEPARTMENT.

Dear Madam,

I am directed to refer to the subject noted above and to enclose herewith appeal No. 422/2012 titled Sultan Mehmood Khattak vs Chief Secretary and others, dated 03.05.2012, received from Khyber Pakhtunkhwa Service Tribunal, Peshawar, which is self explanatory, for further necessary action your end being respondent No. 6.

Encl: As above.

Yours faithfully,


(MUHAMMAD TAUFIQUE)
SECTION OFFICER (E-I)

82/49
22-05-2012
Received today.
22/5/12

"B"

2

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

Appeal No. 422 of 2012 Tribunal Pesh.

Sultan Mahmood Khattak Member Service
Appellant/Petitioner

Versus

Through Chief Secy. Pesh.
Respondent

Respondent No. 6

Mrs. Rukhsana Rahman (PCS, SG, BS-21)

Notice to: - Through the Section Officer (E-1) Govt. of Pk
Establishment & Administration Deptt. Pesh.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 30.5.2012 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. dated~~

Given under my hand and the seal of this Court, at Peshawar this 30th

Day of May 2012

SA

Please put-up.

9.5.12

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted holidays.
2. Always quote Case No. While making any correspondence.

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

Service Appeal No.422/2012

Mr. Sultan Mahmood Khattak

(Appellant)

V/S

1. Government of Khyber Pakhtunkhwa through the Chief Secretary, KPK Peshawar.
2. The Chief Secretary, Government of Khyber Pakhtunkhwa, KPK, Peshawar.
3. The Secretary, Establishment & Administration Department, Government of Khyber Pakhtunkhwa, KPK, Peshawar.
4. The Section Officer (E-I), Government of Khyber Pakhtunkhwa, Establishment & Administration Department, KPK, Peshawar.
5. The Chairman, Khyber Pakhtunkhwa Tribunal, through the Registrar, Khyber Pakhtunkhwa Tribunal, Peshawar.
6. Mrs. Rukhsana Rehman (PCS SG BS-21)

(Repondents)

WRITTEN OBJECTIONS / REPLY ON BEHALF OF RESPONDENT NO.6

Respectfully Sheweth:

PRELIMINARY OBJECTIONS

1. The appeal as framed and filed by the appellant is not maintainable on facts and law and suffers from latches.
2. The appellant has no cause of action for filing this appeal.
3. According to section 22 of Khyber Pakhtunkhwa Civil Servants Act, 1973, no representation shall lie on matters like suitability of a person against a particular post or to be promoted to higher post or grade.
4. The appeal is bad for non-joinder of necessary parties. There are three officers who are even senior to the appellant; he was therefore legally bound to implead the senior officers as respondent which he failed to do so.

PARAWISE COMMENTS ON THE APPEAL

ON PRAYER

- (a) The prayer(s) made and relief claimed by the appellant in this paragraph is not maintainable / allowable. Respondent No.6 has been promoted by the competent authority on the recommendations of the Provincial Selection Board after due process of law and on the basis of her excellent service record / training reports. The notification dated 27-10-2011 promoting respondent No.6 is therefore quite lawful and no assailable before this honorable Tribunal.

- (b) The appellant is not entitled to any relief as mentioned above and as stated in the succeeding paragraphs.

ON FACTS

- 1-2 Contentions made in these paragraphs concern respondents No.1-4. However, it is submitted that the appellant has mentioned his service history etc from BS-17 to 20, whereas the instant appeal essentially involves his fitness for promotion to BS-21. The fact on record is that the Provincial Selection Board did not find the appellant fit for promotion to BS-21. The competent authority accordingly approved recommendations of the Selection Board.
- 3-4 These paragraphs concern respondents No.1-4. The appellant contends that he qualified the 89th NMC but he has not mentioned his % of marks as well as observation of the training institute about his fitness for promotion. The honorable Tribunal may like to requisition copy of the appellant's NMC report as well as that of the answering respondent for perusal and comparison.
- 5-6 Contents of these paragraphs concern respondent 1-4. It is however, mentioned that promotion to BS-21 which is a senior management position is made on merit and not merely on seniority-cum-fitness basis. Further, the appellant is not the senior most officers as per the seniority list which is annexed at **Annex-D**; there are three officers who are even senior to him. The appellant was legally bound to implead the senior officers as respondent which he failed to do so.
- 7 As stated under Para 5 and 6 above, seniority is not the sole condition for promotion to BS-21; further, eligibility means conditions required for consideration and the appellant was considered by the provincial selection board and superseded. Eligibility is a necessary condition for promotion but not a sufficient conditions; senior management posts are filled in on merit and not merely on seniority basis. Further, promotion is not a vested right. Rest of this paragraph relates to respondents 1-4.

ON GROUNDS

- A Relates to respondents 1-4. The appellant was considered for promotion to BS-21 and superseded.
- B Relates to Respondent No.1-4 and subject to record. However, it may be added that the statement is factually incorrect as the appellant was considered for promotion but superseded. Undergoing training course, completion of PERs and certificate of no disciplinary proceeding are in no way mandate automatic promotion. According to the NWFP Civil Servants Promotion policy 2009 (attached with this reply at **Annex-E**) para III (a) (i) an aggregate marks 75 are required on the efficiency index for promotion to BS-21. Para III(a)(iii) further states that in case of failure to attain the requisite threshold, the concerned officer shall be superseded and the next officer on the panel shall be considered for promotion. For promotion to BS-21 the grading of the training report and the PER and the pen-picture are duly taken into consideration.
- C Same as in Para B of the Grounds. The appellant was considered and superseded, he was never ignored. Further more section 9 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 has not been violated. The Section provides that the civil servant must posses such minimum qualifications as may be prescribed. Meeting the minimum threshold of 75 marks is a prescribed condition. Those who do not meet this condition are superseded.
- D Same as at Para (B) Grounds.
- E Relates to respondents No.1-4.

PRAYER

In view of the above submissions, the instant appeal filed by the appellant is devoid of merit. It is therefore humbly prayed that the appeal may be dismissed with cost.



Rukhsana Rehman
Respondent No.6

RUKHSANA REHMAN
Senior Joint Secretary
Establishment Division



(7)

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

Dated Peshawar the 14TH June 2010

NOTIFICATION

NO. SO(E-I)E&AD/5-65/2010. In pursuance of Section-8(1) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, Final Seniority list of Officers of PCS (Secretariat Group) BS-20, as it stood on 8th March 2010 notified/circulated:-

FINAL SENIORITY LIST OF OFFICERS OF PCS (SECRETARIATS GROUP) BS-20

S.#	Name of the Officer	Date of birth and Domicile	Date of 1 st entry into Govt Service	Regular appointment/Promotion to present post			Present Post
				Date	BPS	Method of Recruitment	
1	2	3	4	5	6	7	8
1.	Mr. Shaukat Ali Mohmand	01-01-1953 (Mohmand Agy:)	19-12-1975	23.5.2002	20	By Promotion	On deputation to Fed Govt, Islamabad w.e 24.5.2005.
2.	Mr. Muhammad Asif Khan	01-09-1952 (Abbottabad)	01-01-1976	16.2.2007	20	-do-	OSD E&AD (1.7.2009)
3.	Mr. Muhammad Ishfaq Khan	1-10-1955 (Swabi)	26-09-1979	8.3.2007	20	-do-	Secretary, Irrigation (22.7.2008)
4	Mr. Muhammad Humayun	1-3-1955 (Abbottabad)	26-09-1979	10.10.2006	20	-do-	Chairman Tanzeem E Wal Mahroom. (22.02.2010)
5.	Mr. Sultan Mehmood Khattak	20-07-1954 (Karak).	07-01-1980	23.4.2007	20	-do-	Member NWFP Service Tribunal (17.3.2009)
6	Mr. Abdus Samad Khan	14-7-1950 (Peshawar).	21-10-1974	23.4.2007	20	-do-	Secretary Zakat Ushr Deptt: (14.10.2009)
7.	Sahibzada Fazal Amin	4-4-1956 (Swabi).	20-08-1981	23.12.2006	20	-do-	Secretary, Sports, Culture & Tourism Deptt: (3.4.2008)

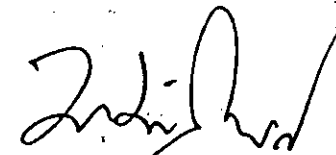
8.	Mrs. Rukhsana Rehman.	06-04-1956 (Kohat)	24-08-1981	3.1.2007	20	-do-	On deputation to Federal Govt. 8.2.2007.
9.	Mr. Ghulam Jilani Asif M.A. Pol. Sc: M.A. History M.A. Islamiat, LLB	29.10. 1951 (Peshawar)	17.6. 1972	10.7.2007	20	-do-	Member (General) GIT, NWFP 30.12.2004
10.	Mr. Gul Zeb Khan	9.3. 1958 (Swabi)	26.10. 1982	10.7.2007	20	-do-	Director, S.T.I, E&AD. (2.6.2008)
11.	Mr. Muhammad Arifeen	5.6. 1957 (Nowshera)	2.7. 1983	4.12.2007	20	-do-	Secretary, Elementary & Secondary Education Deptt: (9.6.2008)
12.	Mr. Muhammad Nawaz Khan	4.1. 1955 (Mohmand Agency)	2.7. 1983	4.12.2007	20	-do-	Director (Finance) S.D.A. (4.12.2007)
13.	Mr. Muhammad Younis Javed (B.Sc. Hons.) M.Sc. Geology)	1.2.57 (S.W. Agency)	10.7.83	06.01.2009	20	-do-	G.M (F&A) FDC (21.1.2010)
14.	Mr. Ahmad Khan	2.8. 1955 (Peshawar)	24.4. 1976	2.6.2008	20	-do-	OSD E&AD. (23.02.2010)
15.	Mr. Muhammad Farid Qureshi	2.9.52 (A.Abad)	15.5.73	06.01.2009	20	-do-	Special Secretary (Reg) E&AD (12.3.2009)
16.	Mr. Sajid Khan	15.4.57 (A.Abad)	02.7.83	06.01.2009	20	-do-	Secretary, E&T, Deptt: (30.8.2008)
17.	Mr. Nizam-ud-Din	02.02. 1962 (Chitral)	05.05. 1987	2.12.2009	20	-do-	OSD E&AD (3.12.2009)

**CHIEF SECRETARY
GOVT: OF KHYBER PAKHTUNKHWA**

Endst: No. & date even

Copy forwarded to the:-

1. Secretary to Governor, Khyber Pakhtunkhwa
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
3. All Administrative Secretaries to Govt of Khyber Pakhtunkhwa
4. PS to Chief Secretary, Khyber Pakhtunkhwa
5. PS to Secretary Establishment, Khyber Pakhtunkhwa
6. Officers concerned.
7. Manager, Govt Printing Press Peshawar.



(ZUBAIR AHMAD)

**SECTION OFFICER (ESTT-I)
PHONE & FAX # 091-9210529**



GOVERNMENT OF N.-W.F.P.
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(ESTABLISHMENT WING)

No. SOE-III (E&A)1-3/2008
Dated Peshawar the 28th January, 2009

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To

1. The Additional Chief Secretary, GoNWFP.
2. The Additional Chief Secretary (FATA), Peshawar.
3. The Senior Member, Board of Revenue, N.-W.F.P.
4. All Administrative Secretaries to Government of N.-W.F.P.
5. The Secretary to Governor, N.-W.F.P.
6. The Principal Secretary to Chief Minister, N.-W.F.P.
7. All Divisional Commissioners in NWFP.

SUBJECT:- NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS PROMOTION POLICY, 2009.

Dear Sir,

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

I. Length of service.

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

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

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

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

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

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

Section Officer E-3
Establishment Dept.

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

1c

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

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

(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing Promotion Policy.

(c) The qualifying thresholds of quantification of PERs for nomination to these trainings are as under:

MCMC	60
SMC	70
NMC	75

(d) There will be no exemptions from mandatory trainings. An officer may, however, request for temporary exemption in a particular moment in time but grant of such exemption would be at the discretion of the competent authority. No such request with regard to an officer would be made by the Government Departments concerned.

(e) Three officers shall be nominated for each slot of promotion on the basis of their seniority. Those unwilling to attend will be dropped at their own expense without prejudice to the rights of others and without thwarting or minimizing the chance of improving the quality of service.

(f) Officers failing to undergo mandatory training in spite of two time nominations for a training shall stand superseded if such failure was not for the reasons beyond the control of the officers concerned.

iii. Development of Comprehensive Efficiency Index (CEI) for promotion:

(a) The Comprehensive Efficiency Index to be maintained for the purpose of promotion is clarified as under:

- (i) The minimum of aggregate marks for promotion to various grades shall be as follows:

Section Officer E-3
Establishment Deptt

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Basic Scale	Aggregate marks of Efficiency Index
18	50
19	60
20	70
21	75

- (ii) A panel of two senior most officers shall be placed before the Provincial Selection Board for each vacancy in respect of promotion to BS-18 & 19. Similarly, a panel of three senior most officers shall be submitted to the Provincial Selection Board for each position in respect of promotion to BS-20 and 21 and the officer with the requisite score on the Efficiency Index shall be recommended for promotion.
- (iii) The senior most officer(s) on the panel securing the requisite threshold of the Efficiency Index shall be recommended by the Provincial Selection Board for promotion unless otherwise deferred. In case of failure to attain the requisite threshold, he (she)/they shall be superseded and the next officer on the panel shall be considered for promotion.

(b) Marks for quantification of PERs, Training Evaluation Reports and Provincial Selection Board evaluation shall be assigned as under:-

S. No.	Factor	Marks for promotion to BS-18 & 19	Marks for promotion to BS-20 & 21
1	Quantification of PERs relating to present grade and previous grade(s) @ 60% : 40%	100%	70%
2	Training Evaluation Reports as explained in Annexure	--	15%
3	Evaluation by P.S.B.	--	15%
	Total	100%	100%

(c) A total of fifteen (15) marks shall be allocated to the Training Evaluation Reports (Nine marks @ 60% for the training in the existing BPS and Six marks @ 40% in the preceding BS). Evaluation of the reports from the Training Inspectors shall be worked out as under:-

(i) It shall be on the basis of Grade Percentage already awarded by the National School of Public Policy (National Management College and Senior Management Wing) and its allied Training Inspectors as provided in their reports.

(ii) For those reports of old Pakistan Administrative Staff College and of NPAs where no such percentage has been awarded,



the percentage range of grades followed by these Institutions as reflected in table-A below:

TABLE-A
Old PASC & NIPAs

Category	Range	Weighted Average	Points of PASC @ 60%=9	Points of NIPAs @ 40%=6
A. Outstanding	91-100%	95.5%	8.60	5.73
B. Very Good	80-90%	85%	7.65	5.10
C. Good	66-79%	72.5%	6.52	4.35
D. Average	50-65%	57.5%	5.17	3.45
E. Below Average	35-49%	42%	3.78	2.52

(iii) Grades from National Defence University will be computed according to the weighted average based on the Grading Key for the range provided by the NDU as reflected in Table-B below:

TABLE-B
NATIONAL DEFENCE UNIVERSITY

Category	Range	Weighted Average	Points @ 60%=9
A. Outstanding	76-100%	88%	7.92
B-Plus. Very Good	66-75.99%	71%	6.39
B-High. Good	61-65.99%	63.5%	5.71
B-Average. Average	56-60.99%	58.5%	5.26
B-Low. Below Average	51-55.99%	53.5%	4.81
B-Minus. Below Average	46-50.99%	48.5%	4.36
C. Below Average	40-45.99%	43%	3.87
F. Below Average	35-39.99%	37.5%	3.37

(d) The officers who have been granted exemption from mandatory training having attained the age of ^{58 years} 56 years or completed mandatory period of serving in a Training Institution upto 27-12-2005, may be awarded marks on notional basis for the training factor (for which he/she was exempted) in proportion to the marks obtained by them in the PERs.

(e) Status quo shall be maintained in respect of officers of special cadres such as teachers, doctors, professors, research scholars and incumbents of technical posts for promotion within their own line of speciality. However, for calculation of their CEI, 70% marks shall be assigned to the quantified score of PER s and 30% marks shall be at the disposal of the PSB.

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[Signature]

*SOR(VI)/E+AD/1-16/2008/valvi
dt 7-5-2009

(f) For promotion against selection posts, the officer on the panel securing maximum marks will be recommended for promotion. Thirty marks placed at the disposal of the Provincial Selection Board in such cases shall be awarded for technical qualification, experience and accomplishments (research publications relevant to the field of specialism).

(g) Since three of the aspects of performance i.e. moral integrity, intellectual integrity, quality and output of work do not figure in the existing PER forms, the grades secured and marks scored by the officer in overall assessment shall be notionally repeated for the other complementary evaluative aspects and form the basis of quantification.

(h) The performance of officers shall be evaluated in terms of the following grades and scores:

		<u>Upto 11th June, 2008</u>	<u>From 12th June, 2008</u>
1.	Outstanding	--	10 Marks
2.	Very Good	10 marks	8 marks
3.	Good	7 marks	7 marks
4.	Average	5 marks	5 marks
5.	Below Average	1 mark	1 mark

(i) The outstanding grading shall be awarded to officers showing exceptional performance but in no case should exceed 10% of the officers reported on. The grading is not to be printed in the PER form but the reporting officer while rating an officer as "outstanding" may draw another box in his own hand in the form, initial it and write outstanding on the descriptive side. Convincing justification for the award shall be recorded by the reporting /countersigning officer. The discretion of awarding "outstanding" is to be exercised extremely sparingly and the award must be merited.

(j) The quantification formula and instructions for working out quantified score are annexed.

IV. Promotion of officers who are on deputation, long leave, foreign training:

a) The civil servants who are on long leave i.e. one year or more, whether within or outside Pakistan, may be considered for promotion on their return from leave after earning one calendar PER. Their seniority shall, however, remain intact.

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Establishment Deptt.

Sabbir

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b) The civil servants who are on deputation abroad or working with international agencies within Pakistan or abroad, will be asked to return before their cases come up for consideration. If they fail to return, they will not be considered for promotion. They will be considered for promotion after earning one calendar PER and their seniority shall remain intact.

(C) "In case of projects partially or fully funded by the federal or provincial Government, Where PERs are written by officers of provincial Government, the condition of earning one calendar PER shall not be applicable. The officers on deputation to projects shall be considered for promotion. However, after promotion they will have to actualize their promotion within their cadre"

d) The civil servants on deputation to Federal Government, Provincial Government, autonomous/semi-autonomous organization shall be considered for promotion and informed to actualize their promotion within their cadres. They shall have to stay and not be allowed to go back immediately after promotion. Such stay shall be not less than a minimum of two years. If he/she declines his/her actual promotion will take place only when he/she returns to his/her parent cadre. His/her seniority in the higher post shall, however, stand protected.

e) The cases of promotion of civil servants who have not successfully completed the prescribed mandatory training (MCMC, SMC & NMC) or have not passed the departmental examination for reasons beyond control, shall be deferred.

f) Promotion of officers still on probation after their promotion in their existing Basic Scales shall not be considered.

g) A civil servant initially appointed to a post in a Government Department but retaining lien in a department shall not be considered for promotion in his parent department. However, in case he returns to parent department, he would be considered for promotion only after he earns PER for one calendar year.

h) A civil servant who has resigned shall not be considered for promotion no matter the resignation has yet to be accepted.

V. Deferment of Promotion:

- (a) Promotion of a civil servant will be deferred, in addition to reasons given in para-IV, if
 - (i) His inter-se-seniority is disputed/sub-judice.

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Jabbar

* Auth. Sc R-VI/ESAD/146/2006 dt 19-4-2010

required by the PSB/DPC for determining his suitability for promotion is not available for reasons beyond his control.

(b) The civil servant whose promotion has been deferred will be considered for promotion as soon as the reasons for deferment cease to exist. The cases falling under any of the above three categories do not warrant proforma promotion but the civil servant will be considered for promotion after determining his correct seniority over the erstwhile juniors.

(c) If an officer is otherwise eligible for promotion but has been inadvertently omitted from consideration in the original reference due to clerical error or plain negligence and is superseded, he should be considered for promotion as soon as the mistake is noticed.

(d) If and when an officer, after his seniority has been correctly determined or after he has been exonerated of the charges or his PER dossier is complete, or his inadvertent omission for promotion comes to notice, is considered by the Provincial Selection Board/ Departmental Promotion Committee and is declared fit for promotion to the next higher basic scale, he shall be deemed to have been cleared for promotion alongwith the officers junior to him who were considered in the earlier meeting of the Provincial Selection Board/Departmental Promotion Committee. Such an officer, on his promotion will be allowed seniority in accordance with the proviso of sub-section (4) of Section 8 of the North-West Frontier Province Civil Servants Act, 1973, whereby officers selected for promotion to a higher post in one batch on their promotion to the higher post are allowed to retain their inter-se-seniority in the lower post. In case, however, the date of continuous appointment of two or more officers in the lower post/grade is the same and there is no specific rule whereby their inter-se-seniority in the lower grade can be determined, the officer older in age shall be treated senior.

(e) ~~If a civil servant is superseded~~ he shall not be considered for promotion until he earns one PER for the ensuing one full year.

(f) If a civil servant is recommended for promotion to the higher basic scale/post by the PSB/DPC and the recommendations are not approved by the competent authority within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

(g) When the Board considers the record as incomplete, or wants to further watch the performance of the officer or for any other reason to be recorded in writing"

Letter No: SOR-VI/EXAD/1-16/2008/vol-VI dated 23-06-2008

Section Officer E-3
Establishment Deptt.

S. Khan

VI. Date of Promotion:

Promotion will always be notified with immediate effect.

VII. Notional Promotion:

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

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

(a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.

(b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

IX. Promotion in case of pending investigations by NAB:

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

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

Yours faithfully,

Muhammad Abid Maheed
28 Jan, 09

(MUHAMMAD ABID MAJEED)
Special Secretary (Regulations)

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Dated Peshawar the 28th January, 2009

Endst: No. SOE-III(E&AD)1-3/2008

Copy forwarded to:

1. The Accountant General, NWFP, Peshawar.
2. The Registrar, Peshawar High Court, Peshawar.
3. The Director, Staff Training Institute, E&A Department, Peshawar.
4. All Additional Secretaries in E&A Department, GoNWFP.
5. Reforms Coordinator, Reforms Cell, E&A Department.
6. All Deputy Secretaries in E&A Department, GoNWFP.
7. The Secretary, NWFP Public Service Commission, Peshawar.
8. The Director, Anti-Corruption Establishment, N.-W.F.P., Peshawar.
9. The Registrar, NWFP Service Tribunal, Peshawar.
10. All Section Officers in E&A Department, GoNWFP.
11. Private Secretary to Chief Secretary, N.-W.F.P.
12. Private Secretary to Secretary, Establishment Department, GoNWFP.
13. Librarian, E&A Department.

Syeda Tanzeela Sabahat
 (Syeda Tanzeela Sabahat)
 Section Officer (E-III)

Dated Peshawar the 28th January, 2009

Endst: No. SOE-III(E&AD)1-3/2008

Copy forwarded to:

1. The Chief Secretary, Government of the Punjab, Lahore.
2. The Chief Secretary, Government of Sindh, Karachi.
3. The Chief Secretary, Government of Baluchistan, Quetta.

Syeda Tanzeela Sabahat
 (Syeda Tanzeela Sabahat)
 Section Officer (E-III)

Fourth Step

The following additions/deductions shall be made in the total marks worked out in the third step for purposes of mandatory trainings.

A. Additions:

- (i) for serving in a Government training institution, including those meant for specialized training in any particular cadre, for a period of 2 years or more **2 marks**

B. Deductions:

- (i) for each major penalty imposed under the Government Servants (Efficiency and Discipline) Rules, 1973/Disciplinary Rules prevailing at the time. **5 marks**
- (ii) for each minor penalty imposed under the Government Servants (Efficiency and Discipline) Rules, 1973/Disciplinary Rules prevailing at the time. **3 marks**
- (iii) for adverse remarks (deductions be made for such remarks only as were duly conveyed to the concerned officer and were not expunged on his representation, or the officer did not represent) **1 mark per PER containing adverse remarks**

Note: For purpose of CEI, the negative marks for adverse entries and/or imposition of penalty shall be deducted from the quantified score of the relevant grade. However, additions for serving in a Government training institution for a period of two years or more shall be made in the total quantified scores of the PERs.

Action Officer E-3
Establishment Dept.
[Signature]

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First Step

Arithmetic mean will be calculated for each calendar year containing 2 or more PERs to derive the PER score for that year as follow:

$$M = \frac{\sum M_y}{N_y}$$

Where

M_y = marks for each PER recorded in calendar year 'y',

N_y = Number of PERs recorded in year 'y',

and Σ stands for summation.

Second Step

Average marks for each level will be calculated according to the following formula:

$$\text{Average marks} = \frac{\sum M}{T}$$

Where

M = Marks for PERs; and

T = Total number of PERs in posts at that level.

Third Step

Weightage for posts held at each level will be given as follows in computing the aggregate score against a uniform scale of 100 marks for promotion:

- 6-3
- (i) to post carrying basic pay scale 18 $10 \times A$
 - (ii) to post carrying basic pay scale 19 $(6 \times B) + (4 \times A)$
 - (iii) to post carrying basic pay scale 20 $(5 \times C) + (3 \times B) + (2 \times A)$
 - (iv) to post carrying basic pay scale 21 $(5 \times D) + (3 \times C) + (A + B)$

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Establishment Dept.

- Where
- A = Average marks for reports in posts carrying basic pay scale 17
 - B = Average marks for reports in posts carrying basic pay scale 18
 - C = Average marks for reports in posts carrying basic pay scale 19
 - D = Average marks for reports in posts carrying basic pay scale 20

Sasidhar

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 422/2012.

Sultan Mehmood Khattak.

VS

Govt: of KPK etc.

REJOINDER ON BEHALF OF APPELLANT TO REPLY OF RESPONDENT NO. 1 TO 4.

R.SHEWETH.

PRELIMINARY OBJECTIONS:

- 1-8. All objections raised by the respondents are incorrect and baseless. Rather the respondents are stopped to raise any objection due to their own conduct because they have affected the service rights of appellant in an illegal manner.

FACTS:

- 1- Admitted correct by respondent so no comments.
- 2- Admitted correct by the respondents so no comments.
- 3- Admitted correct by respondents so no comments.
- 4- Incorrect and not replied accordingly. The respondents have never communicated the fate of application of appellant. More over the other conditions are also in favour of appellant because the appellant has never been communicated any short comings including his honesty, integrity or adverse PERs. Thus the appellant's contention is correct.
- 5- Incorrect hence denied. The respondents have not annexed any documentary proof about the low efficiency index nor the supersession order has been communicated to appellant so far. Thus the respondents are contradicting para-1 of their reply. More over the appellant has never

been communicated any thing which could amount to short coming or hindrance in his way of promotion.

- 6- Not replied accordingly. The seniority of the appellant is stood established whereas the other short comings have never been communicated to appellant.
- 7- Incorrect. According to the superior Court's judgments, appeal/review is competent even if not provided in rules. More over the respondents were legally bound to respond the said appeal of appellant within due time but they failed which shows malafide on their part.

GROUNDS:

- A- Incorrect while para-A of the appeal is correct. The said rules also shows that in case of supersession next senior officer is to be considered whereas the private respondent was two/three stages down in the seniority list. Then what happened to other 2/3 other senior officers. This is still a question mark on the part of respondents. More over the neither any short comings or supersession has been communicated to appellant till date. Thus the contention of respondents is incorrect.
- B- Simply endorsed as incorrect which amounts to admission of this para by the respondents.
- C- Incorrect while para-C of the appeal is correct.
- D- Incorrect and not replied accordingly. More over the para-D of the appeal is correct because the appellant is to be governed under Rules of 1997 and not other.
- E- Incorrect while para-E of appeal is correct.
- F- Incorrect and misconceived because the said officer was senior to appellant then how could he challenge the same.
- G- Incorrect and misconceived. In promotion the authority has to take into considerations, seniority, PERs, length of service, completion of training if

any. All such conditions are in favour of appellant because the appellant has never been informed about his any of short comings.

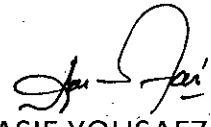
- H- Incorrect while para-H of appeal is correct.
- I- Incorrect while para- I of appeal is correct. Not giving anything due under law is a punishment.
- J- Incorrect while para-J of appeal is correct.
- K- Incorrect while para-K of appeal is correct.
- L- Incorrect and not replied accordingly. More over over para-L of appeal is correct.
- M- Incorrect while para-M of appeal is correct and also being admitted by the respondents.
- N- Incorrect while para- N of appeal is correct.
- O- Not replied according to the contents of para-O of appeal which means para- OP of the appeal is correct.
- P- Incorrect while para-P of appeal is correct.
- Q- Incorrect while para-Q of appeal is correct.
- R- Incorrect while para-R of the appeal is correct.
- S- Incorrect while para-S of appeal is correct.
- T- Misconceived and incorrect. The appellant is fully eligible and entitled for promotion under Rules of 1997 which are to be applied to appellant till his retirement.
- U- Incorrect while para- S of appeal is correct.
- V- Not replied by respondents which means that para-V of appeal is correct.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.


APPELLANT

SULTAN MEHMOOD KHATTAK.

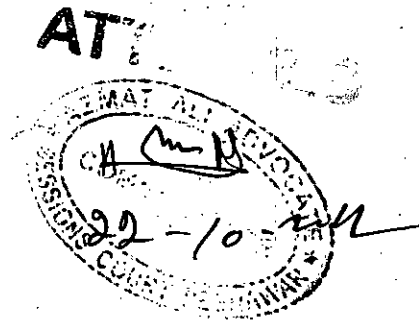
THROUGH:


M.ASIF YOUSAFZAI
ADVOCATE.

AFFIDAVIT.

It is affirm that the contents of appeal and replication are true and correct.


DEPONENT.



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 422/2012.

Sultan Mehmood Khattak.

VS

Govt: of PK etc.

REJOINDER ON BEHALF OF APPELLANT TO REPLY OF RESPONDENT NO.6.

R.SHEWETH.

PRELIMINARY OBJECTIONS:

- 1-4. All objections raised by the respondents are incorrect and baseless. Rather the respondents are stopped to raise any objection due to their own conduct because they have affected the service rights of appellant in an illegal manner.

ON PRAYERS:

Both the prayers of appellant are maintainable as well s entertain-able in lights f superior court judgments and legal jurisdiction of the Tribunal.

FACTS:

- 1-2. Admitted correct y respondent. However the competent authority has never informed the appellant about the reasons prevailed with him for depriving the appellant from his due promotion.
- 3-4. Admitted correct by respondent. More over the all record of officers from S.No.5 to 8 of the seniority list of BPS-20 officers is required to be requisitioned for finding out juxta position of all concerned officers in accordance with the judgments of superior courts.
- 5-6. Admitted correct by the respondent. More over the appellant is concerning his rights and not others who are still sleeping.
- 7- According to the superior Court's judgments, appeal/review is competent even if not provided in rules. More over the respondents were legally bound to respond the said appeal of appellant within

due time but they failed which shows malafide on their part. Moreover, the appellant has never been informed about any kind of short coming of his fitness. Thus the principle of legitimate expectancy is also violated.

GROUNDS:

- A- Incorrect while para-A of appeal is correct.
- B- Incorrect while para-A of the appeal is correct. The said rules also shows that in case of supersession the next senior officer is to be considered whereas the private respondent was two/three stages down in the seniority list. Then what happened to other 2/3 other senior officers. This is still a question mark on the part of respondents. More over the neither any short comings or supersession has been communicated to appellant till date. Thus the contention of respondent is incorrect.
- C- Incorrect while para-C f the appeal is correct. More over the appellant is to be treated according to Rules of 1997 till his retirement as mentioned in PMS Rules 2007.
- D- Incorrect and not replied accordingly. More over the para-D of the appeal is correct because the appellant is to be governed under Rules of 1997 and not other.
- E- Incorrect while para-E of appeal is correct.
- F- Incorrect and misconceived because the said officer was senior to appellant then how could he challenge the same. More over the record of all concerned officers could be requisitioned to determine the truth.
- G- Incorrect and misconceived. In promotion the authority has to take into considerations, seniority, PERs, length of service, completion of training if any. All such conditions are in favour of appellant because the appellant has never been informed about his any of short comings.
- H- Incorrect while para-Hof appeal is correct.

- I- Incorrect while para- I of appeal is correct. Not giving anything due under law is a punishment.
- J- Incorrect while para-J of appeal is correct. More over respondent No.6 has been promoted in an out of legal requirements.
- K- Incorrect while para-K of appeal is correct.
- L- Incorrect and not replied accordingly. More over para-L of appeal is correct.
- M- Incorrect while para-M of appeal is correct and also being admitted by the respondent.
- N- Incorrect while para- N of appeal is correct.
- O- Not replied according to the contents of para-O of appeal which means para- OP of the appeal is correct.
- P- Incorrect while para-P of appeal is correct. Whenever a right of a person is going to be effected, then he has the right of hearing to stop the undue hardship and process of law.
- Q- Incorrect while para-Q of appeal is correct.
- R- Incorrect while para-R of the appeal is correct. The appellant is fully entitled for his claim under Rules of 1997.
- S- Incorrect while para-S of appeal is correct.
- T- Misconceived and incorrect. The appellant is fully eligible for promotion under Rules of 1997 which are to be applied to appellant till his retirement.
- U- Incorrect while para- S of appeal is correct.
- V- -incorrect while para-V of appeal is correct.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for:

APPELLANT

SULTAN MEHMOOD KHATTAK.

THROUGH:

M.ASIF YOUSAFZAI
ADVOCATE.

AFFIDAVIT.

It is affirm that the contents of appeal and replication are true and correct.

DEBONENT.

ATTESTED



BEFORE THE K.PK. SERVICE TRIBUNAL, PESHAWAR.

In Appeal No.422/2012

Mr. Sultan Mehmood Khattak

V/S

Government of KPK.

**APPLICATION FOR DELETION OF RESPONDENT NO.5 FROM THE
PENAL OF RESPONDENTS IN THE ABOVE TITLED APPEAL.**


RESPECTFULLY SHEWETH:

1. That the above mentioned appeal is pending before the Bench-II for full hearing.
2. That the respondent No.5 through the instant appeal is a proforma respondent and there is no need to keep enlist the respondent No.5 in the penal of respondents being not necessary party.
3. That at presently, the Tribunal consists of only two members and one chairman due to which it would not be possible to hear the appeal till the amendment of the Service Tribunal Act, 1974, therefore, this is also a ground to delete the respondent No.5 from the penal of respondents to make hearing and disposal of the case earlier being pending since long.

It is, therefore, most humbly prayed that the respondent No.5 may be deleted from the penal of respondents in the above titled appeal to meet the ends of justice. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.



Appellant.
Sultan Mehmood Khattak

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT:

It is affirmed and declared the contents of the above application are true and correct.


Deponent.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

APPEAL NO.422/2012

Mr. Sultan Mehmood Khattak

V/S

1. Government of Khyber Pakhtunkhwa through the Chief Secretary, KPK Peshawar.
2. The Chief Secretary, Government of Khyber Pakhtunkhwa, KPK, Peshawar.
3. The Secretary, Establishment & Administration Department, Government of Khyber Pakhtunkhwa, KPK, Peshawar.
4. The Section Officer (E-I), Government of Khyber Pakhtunkhwa, Establishment & Administration Department, KPK, Peshawar.
5. The Chairman, Khyber Pakhtunkhwa Tribunal, through the Registrar, Khyber Pakhtunkhwa Tribunal, Peshawar.
6. Mrs. Rukhsana Rehman (PCS SG BS-21)

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1	Copy of letter No. SO (E-I) E&AD/5-75/2012 dated 18/05/2012 by Section Officer (E-I) Est. Dept. KPK	A	1
2	Copy of notice of Khyber Pakhtunkhwa Service Tribunal in Appeal No. 422/2012 issued on 03/05/2012	B	2
3	Reply/Para-wise Comments in response of the Appeal No. 422/2012	C	3-6
4	Seniority List of BS 20 officers issued vide No. SO (E-I)E&AD/5-65/2010 dated 14/06/2010 (KPK)	D	7-8
5	Promotion Policy 2009 issued vide No. SOE-III(E&AD)1-3/2008 dated 28/01/2009 KPK	E	9-19

Rukhsana Rehman

RESPONDENT NO. 6
RUKHSANA REHMAN

RUKHSANA REHMAN
Senior Joint Secretary
Establishment Division

MOST IMMEDIATE / COURT CASE



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT**

**No. SO (E-I) E&AD/5-75/2012
Dated Peshawar, the May 18, 2012**

To

Ms. Rukhsana Rehman (PCS SG BS-21)
Senior Joint Secretary,
Establishment Division, Cabinet Secretariat,
Islamabad.

SUBJECT: - **APPEAL NO. 422/2012 SULTAN MEHMOOD KHATTAK VS CHIEF
SECRETARY AND MRS. RUKHSANA REHMAN THROUGH SO (E-I)
ESTABLISHMENT & ADMINISTRATION DEPARTMENT.**

Dear Madam,


I am directed to refer to the subject noted above and to enclose herewith appeal No. 422/2012 titled Sultan Mehmood Khattak vs Chief Secretary and others, dated 03.05.2012, received from Khyber Pakhtunkhwa Service Tribunal, Peshawar, which is self explanatory, for further necessary action your end being respondent No. 6.

Yours faithfully,

Encl: As above.


(MUHAMMAD TAUFIQUE)
SECTION OFFICER (E-I)

82/40
22-05-2012

Received today.

22/5/12

- (a) The prayer(s) made and relief claimed by the appellant in this paragraph is not maintainable. Respondent No.6 has been promoted by the competent authority on recommendations of the Provincial Selection Board after due process of law and on the basis of her excellent service record / training reports. The notification dated 27-10-2011 promulgated by the Provincial Selection Board is hereby confirmed.

(3)

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

Service Appeal No.422/2012

Mr. Sultan Mahmood Khattak

(Appellant)

V/S

1. Government of Khyber Pakhtunkhwa through the Chief Secretary, KPK Peshawar.
2. The Chief Secretary, Government of Khyber Pakhtunkhwa, KPK, Peshawar.
3. The Secretary, Establishment & Administration Department, Government of Khyber Pakhtunkhwa, KPK, Peshawar.
4. The Section Officer (E-I), Government of Khyber Pakhtunkhwa, Establishment & Administration Department, KPK, Peshawar.
5. The Chairman, Khyber Pakhtunkhwa Tribunal, through the Registrar, Khyber Pakhtunkhwa Tribunal, Peshawar.
6. Mrs. Rukhsana Rehman (PCS SG BS-21)

(Respondents)

WRITTEN OBJECTIONS / REPLY ON BEHALF OF RESPONDENT NO.6

Respectfully Sheweth:

PRELIMINARY OBJECTIONS

1. The appeal as framed and filed by the appellant is not maintainable on facts and law and suffers from latches.
2. The appellant has no cause of action for filing this appeal.
3. According to section 22 of Khyber Pakhtunkhwa Civil Servants Act, 1973, no representation shall lie on matters like suitability of a person against a particular post or to be promoted to higher post or grade.
4. The appeal is bad for non-joinder of necessary parties. There are three officers who are even senior to the appellant; he was therefore legally bound to implead the senior officers as respondent which he failed to do so.

PARAWISE COMMENTS ON THE APPEAL

ON PRAYER

- (a) The prayer(s) made and relief claimed by the appellant in this paragraph is not maintainable / allowable. Respondent No.6 has been promoted by the competent authority on the recommendations of the Provincial Selection Board after due process of law and on the basis of her excellent service record / training reports. The notification dated 27-10-2011 promoting respondent No.6 is therefore quite lawful and not assailable before this honorable Tribunal.

- (b) The appellant is not entitled to any relief as mentioned above and as stated in the succeeding paragraphs.

ON FACTS

- 1-2 Contentions made in these paragraphs concern respondents No.1-4. However, it is submitted that the appellant has mentioned his service history etc from BS-17 to 20, whereas the instant appeal essentially involves his fitness for promotion to BS-21. The fact on record is that the Provincial Selection Board did not find the appellant fit for promotion to BS-21. The competent authority accordingly approved recommendations of the Selection Board.
- 3-4 These paragraphs concern respondents No.1-4. The appellant contends that he qualified the 89th NMC but he has not mentioned his % of marks as well as observation of the training institute about his fitness for promotion. The honorable Tribunal may like to requisition copy of the appellant's NMC report as well as that of the answering respondent for perusal and comparison.
- 5-6 Contents of these paragraphs concern respondent 1-4. It is however, mentioned that promotion to BS-21 which is a senior management position is made on merit and not merely on seniority-cum-fitness basis. Further, the appellant is not the senior most officers as per the seniority list which is annexed at **Annex-D**; there are three officers who are even senior to him. The appellant was legally bound to implead the senior officers as respondent which he failed to do so.
- 7 As stated under Para 5 and 6 above, seniority is not the sole condition for promotion to BS-21; further, eligibility means conditions required for consideration and the appellant was considered by the provincial selection board and superseded. Eligibility is a necessary condition for promotion but not a sufficient conditions; senior management posts are filled in on merit and not merely on seniority basis. Further, promotion is not a vested right. Rest of this paragraph relates to respondents 1-4.

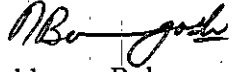
ON GROUNDS

- A Relates to respondents 1-4. The appellant was considered for promotion to BS-21 and superseded.
- B Relates to Respondent No.1-4 and subject to record. However, it may be added that the statement is factually incorrect as the appellant was considered for promotion but superseded. Undergoing training course, completion of PERs and certificate of no disciplinary proceeding are in no way mandate automatic promotion. According to the NWFP Civil Servants Promotion policy 2009 (attached with this reply at **Annex-E**) para III (a) (i) an aggregate marks 75 are required on the efficiency index for promotion to BS-21. Para III(a)(iii) further states that in case of failure to attain the requisite threshold, the concerned officer shall be superseded and the next officer on the panel shall be considered for promotion. For promotion to BS-21 the grading of the training report and the PER and the pen-picture are duly taken into consideration.
- C Same as in Para B of the Grounds. The appellant was considered and superseded, he was never ignored. Further more section 9 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 has not been violated. The Section provides that the civil servant must possess such minimum qualifications as may be prescribed. Meeting the minimum threshold of 75 marks is a prescribed condition. Those who do not meet this condition are superseded.
- D Same as at Para (B) Grounds.
- E Relates to respondents No.1-4.

- Relates to respondents No.1-4, however, the appellant has no cause of action against respondent No.6 as according to the former vacancy existed since 21-03-2009 while the latter was promoted on 27-10-2011.
- G Same as at Para (B) of Grounds.
- H Relates to respondent No.1-4, however, reaching a ceiling / maximum of pay scale is not a ground for promotion.
- I Same as under paras A&H of Grounds.
- J Incorrect, the case of the appellant alongwith the answering respondent was duly considered by Provincial Selection Board and approved by the competent authority after observing legal and procedural requirements as prescribed.
- K Same as at Para (a) Prayers and Para (F) Grounds.
- L Same as at Para (a) Prayers and Para (F) Grounds.
- M Relates to respondent No.1.
- N Relates to respondents No.1-4.
- O Same as at para B Grounds.
- P Relates to respondents No.1-2 however, as already stated consideration for promotion is a right which has been accorded, promotion itself is not a right. There is no legal requirement or practice to hear the panelist before suppression.
- Q Not correct. The action of Establishment Department is in accordance with law as also stated under Para (a) Prayers and para (J) Grounds.
- R Not correct. Equality before law implies that all candidates in the panel are considered in the same manner and subjected to the same yardstick / criteria. In the instant case, service record / training reports and pen picture etc of the candidates were considered to determine comparative merit of their cases and fitness for promotion. Also as mentioned in Para (a) of Prayers and (J) of Grounds.
- S Same as at Para 5 to 7 of Facts and Paras (B) and (F) of the Grounds.
- T The question of predating the promotion can only be raised once the appellant is promoted in due course. Rest same as under para (a) of Prayers and para 5 to 7 of Facts.
- U The issue of predating is pre-mature as stated above and issue of consideration from a particular date / pre-date has been rendered irrelevant once the appellant have already been considered and superseded.
- V The appellant's right of consideration for promotion has been honored. There is no vested right in promotion. The Selection Board having given his case due consideration recommended him for supersession. If officers have equal merit then seniority may play its role. If however, merit is not equal then the candidate with higher merit will supersede the one with lower merit even if he is senior. Likewise, if the senior does not fulfill the prescribed qualifications i.e. the threshold of 75 marks then he is to be superseded in accordance with the promotion policy. The position of the comparative merit of the appellant vis-à-vis the answering respondent can be verified from training evaluation reports, PER grading / Pen pictures and other service record of the both. The honorable Tribunal may like to requisition the relevant record to arrive at a just conclusion.

PRAYER

In view of the above submissions, the instant appeal filed by the appellant is devoid of merit. It is therefore humbly prayed that the appeal may be dismissed with cost.



Rukhsana Rehman
Respondent No.6

RUKHSANA REHMAN
Senior Joint Secretary
Establishment Division

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

Service Appeal No. 422/2012

Sultan Mahmood Khattak, Member Khyber Pakhtunkhwa, Service Tribunal -----

VERSUS

(Appellant)

1. Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar.
2. Chief Secretary, Government of Khyber Pakhtunkhwa.
3. Secretary to Govt: of Khyber Pakhtunkhwa Establishment Department Peshawar.
4. Section Officer (E-I), Establishment & Administration Department, Govt of Khyber Pakhtunkhwa.

(Respondents)

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1&4

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:-

- (1) That the applicant has got no locus standi to file the instant appeal.
- (2) That the appellant has got no cause of action.
- (3) That the application is baseless and has no weight in the eyes of law.
- (4) That the Petitioner has not come to this Hon'ble Tribunal with clean hands and has concealed material facts.
- (5) According to section 4(b)(i) of Khyber Pakhtunkhwa Service Tribunal Act, 1974, no appeal shall lie to the said tribunal against an order or decision of a departmental authority relating to promotion of a civil servant.
- (6) According to section 22 of Khyber Pakhtunkhwa Civil Servants Act, 1973, no representation shall lie on matters like suitability of a person against a particular post or to be promoted to higher post or grade.

(1)

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

Service Appeal No. 422/2012

Sultan Mehmood Khattak, Member Khyber Pakhtunkhwa, Service Tribunal -----

(Appellant)

VERSUS

1. Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Chief Secretary, Government of Khyber Pakhtunkhwa.
3. Secretary to Govt: of Khyber Pakhtunkhwa Establishment Department, Peshawar.
4. Section Officer (E-I), Establishment & Administration Department, Govt of Khyber Pakhtunkhwa.

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- (5) According to section 4(b)(i) of Khyber Pakhtunkhwa Service Tribunal Act, 1974, no appeal shall lie to the said tribunal against an order or decision of a departmental authority relating to promotion of a civil servant.
- (6) According to section 22 of Khyber Pakhtunkhwa Civil Servants Act, 1973, no representation shall lie on matters like suitability of a person against a particular post or to be promoted to higher post or grade.

- (7) Section 12(2) of Civil Procedure Code (CPC) also provides that there is no jurisdiction of Service Tribunal in the matter.
- (8) That the appeal is not maintainable and time barred.

PARA-WISE COMMENTS ON FACTS

Para-1 Pertains to record hence no comments.

Para-2 As above.

Para-3 Pertains to record.

Para-4 As laid incorrect. Successful completion of mandatory training is only a condition out of certain conditions such as good PERs, Seniority-cum-fitness, Educational qualifications, professional skills, experience in the relevant field, good reputation, honesty, administrative and executive experience in case of administrative and executive posts and ability of shouldering higher responsibility(Annex-A). According to seniority lists issued on 3.12.2008 the appellant was at S.No.8 and at SNo.5 in Final seniority list issued on 14.6.2010 (Annex-B&C), therefore the application could not be processed. Moreover, three of the aspects of performance i.e. moral integrity, intellectual integrity, quality and output of work of the officer are also considered by PSB while making overall assessment of the officer for promotion.

Para-5 As explained above seniority is not the sole criteria for promotion. Provincial Selection Board in its meeting held on 13.10.2011 considered the promotion of the certain officers including the appellant and superseded the appellant as his Efficiency Index was below the threshold required for promotion as provided under section III (iii) of promotion policy 2009 and recommended next eligible officer on the panel for promotion (Annex-D). PSB also

takes into account the performance of officer in mandatory training pre-requisite for promotion to next higher grade. The officer has been rated very low by the Administrative Staff College, Lahore (National Management College) with the observation that officer has very limited potential for further progression in his career. Moreover, his appointment on routine assignments should be under supervision within his own service group. Being a BPS-20 officer no one can be promoted under supervision in BPS-21. BPS-20 and BPS-21 are strategic positions in the Civil Service of Province and an officer on these positions should have commanding position having sound leadership qualities.

Para-6

As explained vide para-4 & 5 above.

Para-7

As laid incorrect. Section 22 of Civil Servant Act, 1973 provides that no representation shall lie on matter relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post. However the representation of the appellant was processed and submitted for order of the competent authority and was filed as the promotion of the appellant was considered and decided under the relevant rules:-

ON GROUNDS:-

A

As laid incorrect. The appellant was considered for promotion to BS-21 for promotion and superseded under Section III(iii) of the promotion policy 2009(Annex-D) by PSB as his Efficiency Index was below the threshold required for promotion to B-21.

B

Incorrect, as explained above.

C

As laid incorrect. Promotion case of appellant was considered and dealt with under relevant existing rules framed under Civil Servant Act 1973.

D

As stated by the appellant t promotion to BS-21 shall be on the basis of seniority list/fitness from against the officer holding post in BS-20 and completed required length of service. The PSB considered the promotion of senior most officers on the panel and consider respondent 6 as fit for promotion under the prescribed rules.

E

As laid incorrect. Final seniority list of officers in BS-20 was issued one on 03.12.2008 and 14.06.210 (Annex-B&C), hence the plea of the appellant is not correct.

F

As laid incorrect. If the appellant was the only eligible candidate for promotion to BS-21 after retirement of Mr. Zai-ur-Rehman then he would have challenged the promotion of Mr. Muhammad Hamayun promoted to BS-21 dated 22.07.2010.

G

As stated vide para-4 &5 only good PERs record or seniority or mandatory training is not the sole criteria for promotion.

H

As laid incorrect. Reaching the maximum of pay scales does qualify the appellant for promotion to higher grade.

I

As laid incorrect. The promotion and supercession of the appellant was dealt with under the existing promotion policy and not under RSO or E&D Rules hence no question of penalty arises.

J

As stated in preceding paras.

K

As laid incorrect. The notification of the respondent No.6 is legal and issued under the relevant rules.

L

As stated in proceeding para.

M

As laid incorrect. The appeal was processed and considered by the competent authority and ordered its file.

N

As explained above.

O

As explained above.

P

Not admitted. The appellant was not proceeded or treated under E&D Rules.-

Q

As laid incorrect. Civil Servant is dealt with under Article 240-241 and rules made there under, therefore, article 4 of the article bid does altercated in issue in hand. ove.

R

As explained above.

S

As explained vide para 4,5, & 7 above.

T

Not admitted. Only those civil servants are eligible for promotion fulfilling all the requirements as provided under relevant promotion policies/rules. As the appellant was considered and superseded in light of the existing policy/rules have no right of promotion.

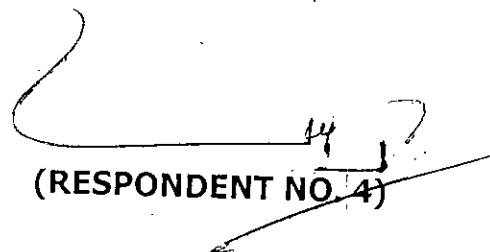
U

As laid incorrect. The appellant was not eligible for promotion therefore, have no right of promotion for retrospective date.

PRAYER

It is, therefore most humbly prayed that on acceptance of these para-wise comments, the instant appeal being devoid of any merits may very graciously be dismissed.


(RESPONDENT NO. 1 & 3)


(RESPONDENT NO. 4)

Deputy Secretary (Estab.)
Estab. & Admn. Department

Ps/Secy Estab. N.W.F.P.

No. 773

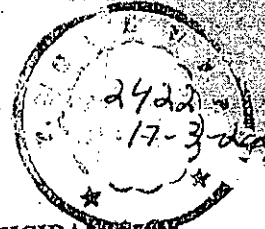
Diary No. 2435

Date 18-3-09

Date 17-3-09

IMMEDIATE
BY UMS/CONFIDENTIAL

GOVERNMENT OF PAKISTAN
CABINET SECRETARIAT
ESTABLISHMENT DIVISION
ISLAMABAD



Subject: - TRAINING REPORTS IN RESPECT OF PARTICIPANTS OF
89TH NATIONAL MANAGEMENT COURSE HELD AT
NATIONAL MANAGEMENT COLLEGE, LAHORE.

Please find enclosed Training Reports (in original) in respect of the following officers, belonging to the services of Government of NWFP, who attended the 89th National Management Course at National Management College, Lahore for information and further necessary action:-

1.	Mr. Sultan Mahmood Khattak
2.	Mr. Waqar Ayub

2. Please acknowledge the receipt.

(Encl:-In original)

(Signature)
(S. M. Tahir)
Joint Secretary (T)

The Chief Secretary, Government of NWFP, Peshawar.
Establishment Division's u.o. No.1/5/2005-T-I, dated 13-3-2009.

Secret

EF/III
1873
GSPASCI/2745-1-PER/ANMC-NDC PER/ANMC-NMC T-Report.doc
Secy Estab
Keep in file
SIC
17/3/09

Chief Secretary
N.W.F.P.
16/3
Secy Estab

AG
Secy Estab
17-03-2009

DSCE

Confidential

NATIONAL MANAGEMENT COLLEGE



COURSE REPORT 89th NATIONAL MANAGEMENT COURSE

Name of the Participant: Mr. SULTAN Mahmood Khattak

Designation/Department: OSD/Member,
NWFP Services Tribunal,
Peshawar.

Prv. NWFP

Mr. Sultan Mahmood Khattak at a glance presents an obtuse appearance and a careless outlook. He joined the course with a very limited understanding of issues relating to public policy and its implementation. His grasp on his own service matters was modest and his awareness of the internal and external dynamics of Pakistan was weak.

During the course, he had to struggle hard to catch up with his colleagues because of his inherent capacity and knowledge deficit. As a result his learning graph during the training remained flat. With an inadequate intellectual ability, he was able to acquire only a modicum of understanding of public policy formulation and implementation at the operational level. The officer displays mediocre analytical and synthesizing skills with low-grade ability to occasionally draw just passable options from scenarios of lesser complexity. His limited vision, lack of exposure and inability to work hard limited his capacity to gain from the learning opportunities offered to him during the course. His communication skills

PTO

Confidential

improved from weak to moderately satisfactory level, but he needs to be much more articulate and focused in his speech and his presentations. His writing skills are more ineffectual than his oral communication skills and showed little if any improvement. His interpersonal skills are hampered by his lack of sophistication. Accordingly, his peers have rated him near the bottom of the course which is quite in line with his demonstrated performance.

Mr. Sultan shows very limited potential for further progression in his career and is considered suitable for appointment on routine assignments, under supervision, within his own service group.

Grade: Average

Percentage: 50%

Present Appointment Potential:	<i>Within own service</i>	<i>Outside own Service</i>	
Promotion Potential:	<i>Very Good</i>	<i>Good</i>	<i>Limited</i>
Employment after promotion:	<i>Within own service</i>	<i>Outside own Service</i>	

Instructional Potential: *Fit to be employed as faculty at:*

i) Own Service Institutes.	Yes	Possible	No <input checked="" type="checkbox"/>
ii) Civil Services Academy.	Yes	Possible	No <input checked="" type="checkbox"/>
iii) National Institute of Management.	Yes	Possible	No <input checked="" type="checkbox"/>
iv) National Management College.	Yes	Possible	No <input checked="" type="checkbox"/>

Dean

Signature

Date:

RAHAT-UL-AIN