

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 1132/2022

Mr. Muhammad SaleemAppellant.

VERSUS

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

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11/1/22
Respondent

**BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR**

Service Appeal No # 1132/2022

Mr. Muhammad SaleemAppellant

Versus

Chief Secretary, Govt of Khyber Pakhtunkhwa & Other.....Respondents

**APPLICATION FOR SETTING ASIDE EX-PARTY PROCEEDING DATED 06-01-2023
AND RESTORING RIGHT OF FILING PARA-WISE COMMENTS.**

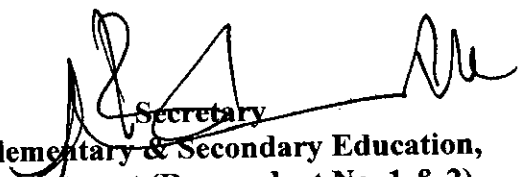
Respectfully Sheweth,

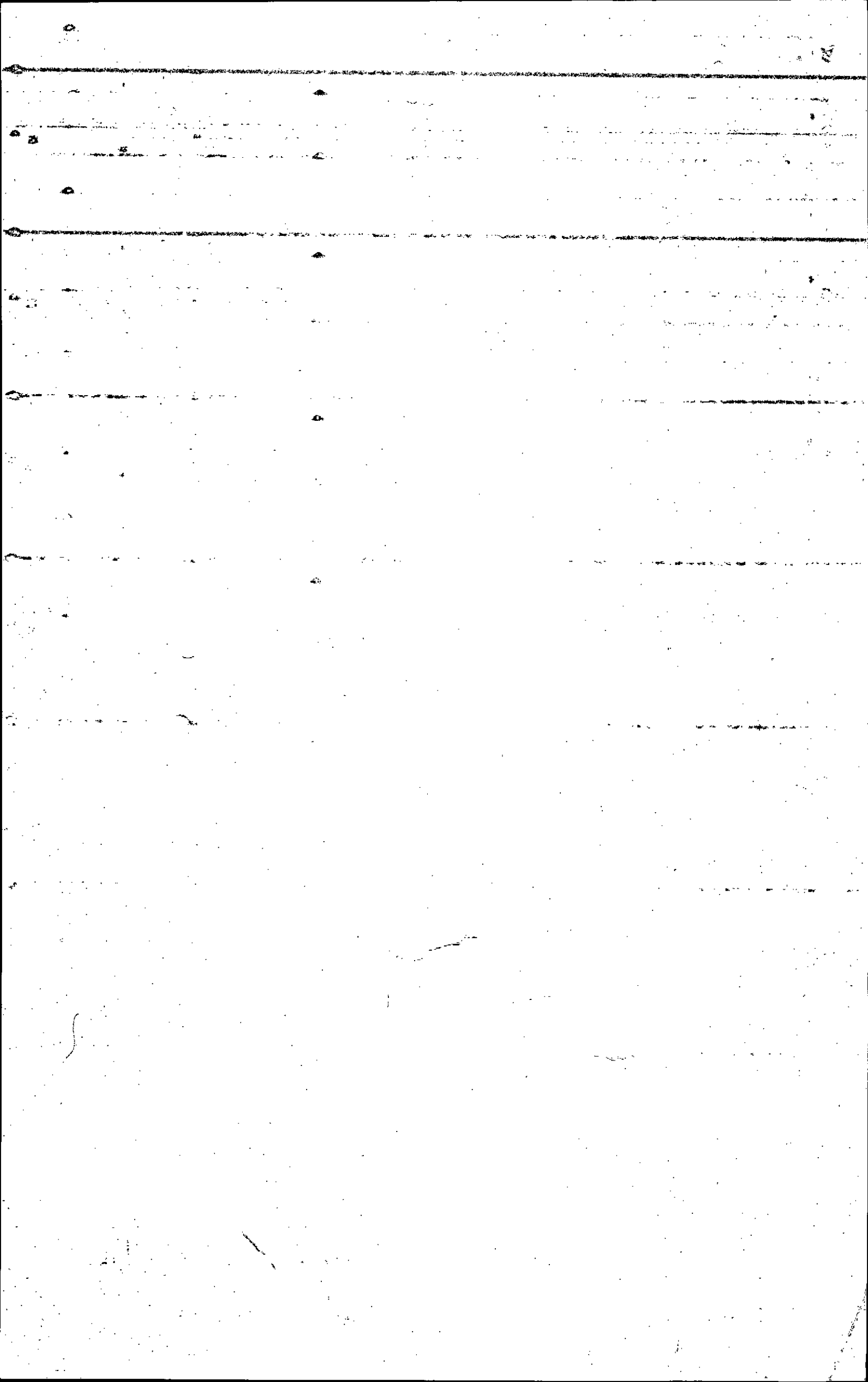
- 1 That the above titled appeal was fixed before this Honorable Tribunal on 06-01-2023 for submission of written reply.
- 2 That the Honorable Tribunal has ordered against the respondents as ex-parte alongwith striking out the Right of respondents for non-filing of para-wise comments. (Copy enclosed).
- 3 That feeling aggrieved the respondents seeks restoration of the right of filing para-wise comments on the following grounds inter alia.

Grounds:

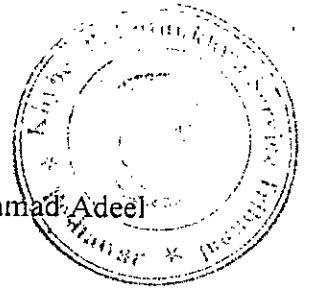
- 1 That the valuable rights of the department/respondents are involved with the instant Service Appeal.
- 2 That the application is within time and there is nothing dis-obedience on the part of respondents.
- 3 That on the very same day on which the respondents were proceeded ex-party. The para-wise comment were ready to file but the delay was caused due to proper submission of attested copies and vetting of the said comment.
- 4 That there is no legal bar in acceptance of the application in hand.
- 5 That the delay was not intentional but due to the above reason respondents will show punctuality in future.
- 6 That according to the rule of natural justice no one can be condemned un-heard.
- 7 That the filing of para-wise comments is very necessary for the just and proper disposal of the above service appeal.

It is therefore, most humbly requested that an acceptance of this application the ex-party proceedings against the respondents may be set aside & right to file para-wise comments may kindly be restored Please.


Secretary
Elementary & Secondary Education,
Department (Respondent No. 1 & 2)



A. No 1129/2022



6th Jan, 2023

None for the appellant present. Mr. Muhammad Adeel Butt. Addl: AG for respondents present.

There is nobody present on behalf of the respondents nor did they submit written reply/comments. The time provided in Rule-12 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 for filing reply is seven days before the date fixed but despite providing opportunity the respondents have not filed the comments. They are thus placed ex-parte and their right to file reply stands struck off. Therefore, let this appeal be admitted to full hearing subject to all just and legal objections. The appellant is directed to deposit security fee within ten days. To come up for arguments on 21.02.2023 before D.B.

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(Kalim Arshad Khan)
Chairman

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 10/1/23
Number of Page 2-2
Copy 10/
Date 10/1
Date of Delivery of Copy 11/1/23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Service Appeal No. 1132/2022

Mr. Muhammad Saleem.....Appellant.

VERSUS

Chief Secretary to Govt of KPK Peshawar..... Respondents.

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS NOS. 1 TO 4.

Respectfully Sheweth,

Preliminary Objections:

1. The appellant has got no cause of action against the Respondents.
2. The appellant has not come to the Tribunal with clean hands.
3. The appellant is not an aggrieved person nor has any locus standi to file the present appeal.
4. That the appellant has concealed material facts from this Tribunal.
5. That the appellant is estopped by his own conduct to file the present appeal.
6. That the present appeal is against the prevailing law and rules.
7. That the appellant is not entitled for any relief, he has sought from this Honorable Tribunal.
8. That the present appeal is liable to be dismissed being devoid of any merits.
9. That the present appeal is barred by law and hence no maintainable.
10. That the appeal is bad for misjoinder and non-joinder of necessary parties.

On FACTS

1. Pertains to record.
2. Pertains to record.
3. Pertains to record, however, it is pertinent to mention here that the Provincial Selection Board proceeded in accordance with law and took up the case for the then vacant positions where top five were recommended for promotion and as there were no further vacant post available. Therefore, no further promotions were given to anybody and same as the position of the present appellant.
4. Pertains to record, however, the fact that the superannuation age of civil servants from 60 to 63 years was once for all settled as 60 years by Khyber Pakhtunkhwa Civil Servant Act, (Amendment) 2021.
5. Pertains to record, however it is pertinent to mention here that the appellant was not an eligible candidate for the promotion as there were only five post available vacant whereas the present appellant was on S. No. 11 in the seniority list of BPS-19.
6. Incorrect, the appellant was not eligible for promotion due to non-availability of posts that is why only top five were promoted.
7. Incorrect, the respondents have performed their duty in accordance with law and as the situation of availability of post of BPS-20 (Teaching Cadre) was unknown and still occupied by the then officers because of the amendment in Khyber Pakhtunkhwa Civil Servant Act (Amendment) and after the settlement of the above matter of retirement of officers the appellant was retired and therefore, not taken up from any further PSB meeting.

8. In response of Para-08, it is submitted that as stated in above paras the appellant was retired on 12-01-2022 and till then no Provincial Selection Board meeting were scheduled due to the non-availability of vacant posts of BPS-20 (Teaching Cadre). Therefore, the appeal is without any legal standing and is liable to be dismissed being devoid of any merits.
9. Incorrect, in fact in the upper part of the same para it is admitted by the appellant that when the working paper was sent, the appellant stood retired from service. So it is clear from the appeal of the appellant that before PSB meeting the right of promotion of appellant ceased being retired on 12-01-2022. It is further submitted that the appellant was in the knowledge of the current situation of the than working paper, PSB meeting and his retirement date but in spite of knowledge of having no name of the appellant in working paper dated 12-01-2022 his departmental appeal was filed on 17-03-2022, which is time barred and validly dismissed by the department appellate authority.
10. Para-10 alongwith all the grounds are incorrect, hence denied, the appellant is not an aggrieved person in the eye of law.

On Grounds:

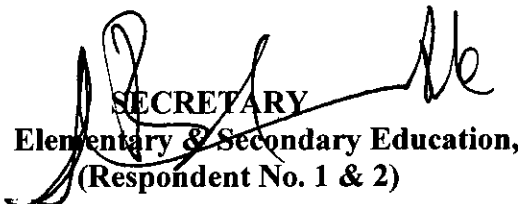
- A. Incorrect, in PSB meeting 30-12-2020 only top five panelist were recommended for promotion from seniority list of BPS-19 dated 21-12-2019 because of the non-availability of further vacant posts.
- B. Incorrect, the appellant there were no post available for promotion during his employment and likewise him many people retired and the other got promotion on availability of posts.
- C. Incorrect, and denied. The Government has its policies and make changes in it from time to time through legislations in which the Respondents cannot interfere being constitutional powers. So the amendment in superannuation period was the aim of Government and at that time that was legal for the respondent which was the act of the parliament and because of the act of the parliament there were no vacant post at all.
- D. Incorrect, the detail reply is given the above parawise comments.
- E. Incorrect, the appellant was not entitled for any relief and so is the current situation, therefore, the appeal in hand is not maintainable.
- F. Incorrect, the appellant is not an aggrieved person and is not entitled for any relief.
- G. Incorrect, the appeal is hopelessly time barred.

It is therefore, most humbly requested that the appeal may kindly be dismissed being having no force of law and devoid of merits.



DIRECTOR

**Education Khyber Pakhtunkhwa
(Respondent No. 4)**



SECRETARY
Elementary & Secondary Education,
(Respondent No. 1 & 2)

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Service Appeal # 1132/2022

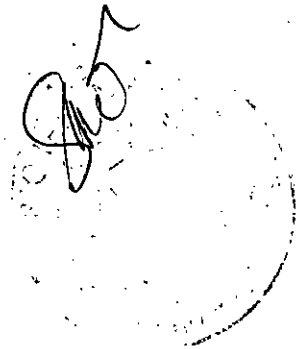
Mr. Muhammad Saleem.....Petitioner

VERSUS

Govt. of Khyber Pakhtunkhwa & others.....Respondents

AFFIDAVIT

I, **Muhammad Imran Zaman**, Section Officer (Litigation-II) Elementary & Secondary Education, Department do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments, submitted by the respondents, are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

11/1/2022
Muhammad Imran Zaman
Section Officer (Lit-II)
E&SE Department Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

AUTHORITY

I, Section Officer (Litigation-II), Elementary & Secondary Education, Department, do hereby authorize Mr. Fahim Ullah (Focal Person) of Elementary & Secondary Education, Department, Government of Khyber Pakhtunkhwa to attend and submit para-wise comments the Khyber Pakhtunkhwa Service Tribunal Peshawar on behalf of the undersigned.

11/1/2015
Fahim Ullah

SECTION OFFICER (LIT-II)
Elementary & Secondary Education, Department,
Government of Khyber Pakhtunkhwa

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PSB-II

PENAL PROFORMA FOR PROVINCIAL SELECTION BOARD

In respect of Muhammad Saleem

Per:

Domicile - D.I./Khan		Service/Group		Sen: No. 12		
Education Qualification		Date of Birth		Date of Superannuation		
MA/Med		02.02.1962		01.02.2022		
SERVICE PARTICULARS						
Date of Joining/Service	Date of Promotion in respect of		Length of Service		Eligibility for consideration	
	Present Scale	Lower Rank		Total		In present Scale
		B-17	B-18			
11.11.1987	13.06.2012	22.10.1991	9.2.2004	Y- 32 & 04 months	Y-8 & 01 month	Eligible for promotion
Important appointments held in the present Rank/post:						
1	Principal BS-19 GCMHS No. 1 Tank					
Penalties:(if any) Nil						
Training Courses (other than mandatory Training)						
Number of PERs						
Basic Scale	Outstanding	Very Good	Good	Average	Below Average	Adverse report/Remarks in
B-17		04	08	-	-	
B-18		05	03	-	-	
B-19		02	06	-	-	
Awaited Reports (PERs)			Additional Information (if any)			
EFFICIENCY INDES						
Required Threshold	Score of PERs + Training Reports		Marks awarded by PSB	Total		
70	53					
Recommendations of PSB						
Promoted		Deferred		Superseded		

Prepared by

Checked by

Section Officer (BM)
Education Department (KP)

PER GRADING AND QUANTIFICATION FORM FOR REGULAR PROMOTION TO BS-20
IN RESPECT OF Mr. RIASAT KHAN (DOB 13.03.1962)

Seniority No.8

Year	Period of PER		Pen Picture Reporting Officer	Countersigning Officer	PERs Assessment	Fitness for Promotion	Score
	From	To					
Previous Scale (BP-17)							
				Agreed.	Good	Fit	7
1992	1.1.1992	31.12.1992	He is an honest and efficient worker	Agreed.	Good	Fit	7
1993	1.1.1993	31.12.1993	An intelligent honest and dutiful officer	Agreed.	Good	Fit	7
1994	1.1.1994	31.12.1994	An intelligent honest and dutiful officer	Agreed.	Good	Fit	7
1995	1.1.1995	31.12.1995	Cooperative energetic and submissive subordinate	Agreed.	Good	Fit	7
1996	1.1.1996	31.12.1996	A good teacher	Agreed.	Good	Fit	7
1997	1.1.1997	31.12.1997	A good teacher	Agreed.	Good	Fit	7
1998	1.1.1998	31.12.1998	Cooperative an honest and good teacher	Agreed.	Good	Fit	7
1999	1.1.1999	31.12.1999	Cooperative and a submissive officer	Agreed.	V.good	Fit	10
2000	1.1.2000	31.12.2000	Punctual, hardworking, cooperative and obedient.	Agreed.	V.good	Fit	10
2001	1.1.2001	31.12.2001	Punctual, hardworking, obedient and cooperative	Agreed.	Good	Fit	7
2002	1.1.2002	31.12.2002	Hardworking and regular	Agreed.	V.good	Fit	10
2003	1.1.2003	31.12.2003	Dedicated and efficient				93
Previous Scale (BP-18)							
2004	1.1.2004	31-12-2004	He is a very Cooperative silent nature and devoted to his job duties and can solve the problems	Agreed	V.good	Fit	10
2005	1.1.2005	31-12-2005	He perform his duties efficiently and with keen interest	Agreed	V.good	Fit	10
2006	1.1.2006	31-12-2006	He is an efficient and hardworking officer	Agreed	V.good	Fit	10
2007	1.1.2007	31-12-2007	The officer is honest, dutiful, hardworking and painstaking officer	Agreed	V.good	Fit	8
2008	1.1.2008	31-12-2008	Industrious, enterprising and cooperative officer.	Agreed	Good	Fit	7
2009	1.1.2009	31-12-2009	Industrious, cooperative, courteous and helpful officer.				
2010	1.1.2010	31-12-2010	He is regular, efficient, good communication skill and can be trusted. He can work in any circumstances	Agreed	Good	Fit	7
2011	1.1.2011	31-12-2011	Industrious, enterprising, courteous and cooperative.	Agreed	V.good	Fit	8
Present Scale (BP-19)							
2012	1.1.12	31.12.12	Regular industrious, enterprising and cooperative officer.	Agreed	V.good	Fit	8
2013	1.1.13	31.12.13	Cooperative, industrious enterprising and promising officer.	Agreed	V.good	Fit	8

[Signature]

Deputy
Director
Khyber Pakhtunkhwa Peshawar

[Signature]

**PER GRADING AND QUANTIFICATION FORM FOR REGULAR PROMOTION TO BS-20
IN RESPECT OF Mr. RIASAT KHAN (DOB 13.03.1962)
Seniority No.8**

2014 A	1.1.14	30.4.14	Regular punctual task oriented, trustworthy and has very good ability to work under pressure.	Agreed	V.good	Fit	8
2014 B	1.5.14	31.12.14	Riasat Khan has the ability to work under pressure. He reliably applies own technical knowledge and solve the problems.	Agreed	Good	Fit	7
2015	1.1.15	31.12.15	An honest officer.	Agreed	V.good	Fit	8
2016	1.1.16	31.12.16	Honest and competent officer.	Agreed	V.good	Fit	8
2017	1.1.17	31.12.17	Skillful and seasoned officer.	Agreed	V.good	Fit	8
2018	01.01.2018	31.12.2018	Performed very well while his stay at district	Agreed	V.good	Fit	8
2019	01.01.2019	31.12.2019	Hardworking and trustworthy officer.	Agreed	V.good	Fit	8
							71

Comprehensive efficiency index

PERs Quantified Score 50:30:20@ 70%	Basic Scale	Aggregate Score	Weightage Factor	Points Obtained
	Present Scale	7.89	39.44	33.13
	Previous Scale(B)	8.75	26.25	23.38
	Previous Scale(A)	7.75	15.50	
	(i) Additions*			
	(ii) Deletions**			
	Total C5+B3+A2	24.39		56.51

Evaluation by the PSB out of 30 marks

G.Total

Required threshold on CEI for promotion to BP-20 is 70

- * 2 marks shall be added for serving in a government training institution including those meant for specialized training in any particular cadre for a period
- ** 5, 3 & 1 marks shall be deducted for each major, minor penalty and adverse remarks respectively.

[Signature]
Secretary
Education Department
Khyber Pakhtunkhwa

[Signature]
Deputy Secretary (P-1)
Ministry of Basic Education
Khyber Pakhtunkhwa

[Signature]


REVISED AND UPDATED (FINAL) SENIORITY LIST OF PRINCIPALS BPS-19 MALE E&SED Khyber Pakhtunkhwa (Teaching Cadre) as stood on 31/12/2019 PSB.

S.#	Name of Officer with Designation	Qualif:	D/O Birth	Domicile	Date of 1 st Entry in Edu; Deptt:	Date of Present posting	BS	Method of Recruit	Remarks
1	Sher Nawaz Pri: GHS Landiwan Lakki Marwat	M.A M.Ed	15/03/1965	Bannu	22/10/1999	13/06/2012	19	By Promotion	19
2	Muhammad Ashraf Deputy Director FITE Jamrud	M.Sc M.Ed	03/05/1961	Kohat	13/09/1990	13/06/2012	19	By Promotion	
3	Nazim ud Din Principal RITE (M) Darosh Chitral	M.A M.Ed	01/04/1964	Chitral	24/12/1989	13/06/2012	19	By Promotion	
4	Munawar Gul Pri: GHSS Tarnab Farm Peshawar	M.A M.Ed	15/03/1962	Bannu	31/10/1981	13/06/2012	19	By Promotion	
5	Moin ud Din Principal GHSS Shakar Dara Kohat	M.Phil.Edu	01/01/1961	Karak	30/09/1987	13/06/2012	19	By Promotion	
6	Muhammad Bashir Pri: GHS Kalo Khan Swabi	M.Sc B.Ed	05/04/1963	Swabi	22/01/1991	13/06/2012	19	By Promotion	
7	Mir Daud Khan Pri: GHSS Nazim Nasib Nawaz ISSAKI Shaikhan Bannu	M.A B.Ed	03/02/1964	Bannu	22/10/1991	13/06/2012	19	By Promotion	
8	Riasat Khan Principal GCMHS Torbala Township Haripur	M.Sc B.Ed	13/03/1962	Abbottabad	13/10/1985	13/06/2012	19	By Promotion	
9	Sikandar Sher Pri: GHSS Mansabdar Swabi	M.A M.Ed	10/03/1962	Swabi	15/05/1987	13/06/2012	19	By Promotion	
10	Nelik Nawaz Khan Sec BISE Bannu	M.A B.Ed	08/09/1961	Bannu	22/03/1992	13/06/2012	19	By Promotion	
11	Raj Muhammad Khan Secretary BISE DI Khan	M.Sc M.Ed	13/01/1962	Nowshera	17/02/1992	13/06/2012	19	By Promotion	
12	Muhammad Salim Pri: GSSNCMHS No.1 Tank	M.A M.Ed	02/02/1962	D.I.Khan	11/11/1987	13/06/2012	19	By Promotion	
13	Hussam ul Haq Pri: GHS no.3 Kohat	M.A M.Ed	01/01/1961	Kohat	11/02/1982	13/06/2012	19	By Promotion	
14	Abdul Halim Pri: GHS Jahangir Karak	M.Sc M.Ed	16/07/1962	Karak	23/02/1984	13/06/2012	10	By Promotion	
15	Zaheer Ahmad Pri: GSMHS Taru Jabba Nowshera	M.Sc M.Ed	13/11/1962	Bannu	22/10/1991	13/06/2012	19	By Promotion	
16	Riaz Ahmad Bahar Pri: GHS Civil Quarter Peshawar	M.Sc M.Ed	07/01/1964	Peshawar	22/10/1991	13/06/2012	19	By Promotion	
17	Mir Laif Pri: GHSS Hakim Barat Bannu	M.A B.Ed	03/08/1961	Bannu	05/10/1987	13/06/2012	19	By Promotion	
18	Muhammad Iqbal Pri: GHS Badber Peshawar	M.A M.Ed	06/02/1962	Kohat	22/10/1991	13/06/2012	19	By Promotion	
19	Saif Ullah Pri: GHSS Kot Kashmir Lakki	M.A B.Ed	02/08/1962	Bannu	13/02/1988	13/06/2012	19	By Promotion	
20	Nisar Muhammad DEO(M) Mansehra	M.Sc M.Ed	10/03/1963	Peshawar	14/11/1990	13/06/2012	19	By Promotion	
21	Taj Muhammad Pri: GHS Tur Dher No.1 Swabi	M.A M.Ed	31/12/1963	Mohmand Agency	19/03/1992	13/06/2012	19	By Promotion	
22	Hafiz Muhammad Rauf Pri: GHS Bazar Ahmad Khei Bannu	M.A B.Ed	10/11/1963	Bannu	19/04/1986	13/06/2012	19	By Promotion	
23	Lutfur Rahman Pri: GHSS Labour Colony Mardan	M.A B.Ed	10/11/1963	Nowshera	30/12/1990	13/06/2012	19	By Promotion	
24	Muhammad Ajmal Pri: GHSS Takkar Mardan	M.Sc B.Ed	10/12/1961	Mardan	20/11/1986	13/06/2012	19	By Promotion	
25	Abdul Aziz Pri: GHS No.1 Abball Abad	M.A M.Ed	23/02/1961	Bannu	23/02/1983	13/06/2012	19	By Promotion	
26	Muhammad Nazir Pri: GHSS Shinkian Mansehra	M.Sc B.Ed	20/01/1963	Mansehra	11/08/1987	13/06/2012	19	By Promotion	
27	Muhammad Sharif Pri: GHS Kola Swabi	M.Sc M.Ed	02/06/1964	Swat	26/09/1992	13/06/2012	19	By Promotion	
28	Muhammad Mutahir Member Text Book Board Peshawar	M.A M.Ed	22/03/1966	Swabi	26/09/1992	13/06/2012	19	By Promotion	
29	Ajmal Shah Pri: GHS No.1 Nowshera kalan	M.A B.Ed	20/09/1967	Nowshera	26/09/1992	13/06/2012	19	By Promotion	
30	Waqar Ali Pri: GHSS Doshra Charsadda	M.A M.Ed	06/05/1970	Nowshera	28/08/1992	13/06/2012	19	By Promotion	
31	Wali Khan Pri: GHS khujaki Killa Karak	M.Sc M.Ed	09/04/1969	Karak	26/09/1992	13/06/2012	19	By Promotion	
32	Munawar Khan Pri: GHS Gul Bela Peshawar	M.Sc B.Ed	24/01/1968	Bannu	26/09/1992	13/06/2012	19	By Promotion	

[Handwritten signature]
 Director
 Khyber Pakhtunkhwa
 Education Department

STATEMENT SHOWING THE NUMBER OF RETIRED/CONDITIONAL
RETIED OFFICERS IN BS-20

S/No	Name of officer with Designation	Date of Birth	Date of Retirement
1.	Mr. Matiullah, Ex-Principal BS-20 GHSS No.1 Peshawar	Pre-Mature	31.10.2019
2.	Mr. Mir Qalam Khan, Ex-Principal BS-20 GHSS Karak	Pre-Mature	02.03.2020
3.	Mr. Hussain Ahmad, Ex-Principal BS-20 RITE (M) Timergara Dir Lower	25.02.1959	24.02.2019
4.	Mr. Luqman Ali Khan, Ex-Principal BS-20 GHSS No. 1 Mansehra	25.02.1959	24.02.2019
5.	Muhammad Riaz, Ex-Principal BS-20 RITE (M) Chitral	14.03.1959	13.03.2019 (case is under process)
6.	Mr. Attaullah Khan, Ex-Principal BS-20 GHSS No. 2 D.I Khan	01.01.1960	31.12.2019
7.	Mr. Dilawar Khan, Ex-Principal BS-20 GIS No. 2 Bannu	01.02.1960	31.01.2020 (Conditionally Retired)
8.	Mr. Hamayun Khan, Ex-Principal BS-20 GCMHS Timergara Dir Lower	03.02.1960	02.02.2020 (Conditionally Retired)
9.	Mr. Mir Baz Khan, Ex-Principal BS-20 GCMHS Daggar Buner	20.03.1960	19.03.2020 (Conditionally Retired)
10.	Mr. Hakim Ullah, Ex-Director BS-20 Director PITE Peshawar	02.04.1960	01.04.2020 (Conditionally Retired)
11.	Mr. Abdul Haq, Ex-Principal BS-20 RITE (M) Mardan	25.05.1960	24.05.2020 (Conditionally Retired)
12.	Mr. Ahmad Jan, Ex-Principal BS-20 GSUHHSS Charsadda	10.06.1960	09.06.2020 (Conditionally Retired)
13.	Mr. Sifat Ullah, Ex-Principal BS-20 GCMHS Lakki Marwat	01.09.1959	 (Conditionally Retired)
14.	Mr. Zahid Rashid, Ex-Principal BS-20 GCMHS Lakki Marwat	15.09.1960	 (Conditionally Retired)
15.	Mr. Fida Muhammad, Ex-Principal BS-20 GCMHS Chitral	12.12.1960	Conditionally Retired)


 Deputy Director (Establishment)
 Directorate of E&SE
 Khyber Pakhtunkhwa, Peshawar

Deputy Director (E&SE)
 Directorate of E&SE
 Khyber Pakhtunkhwa Peshawar.