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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 1632-P/2022

Diary No. **5537**

Dated **23/5/2023**

Mr. Tashfeen Haider.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

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S. Haider
Deponent

(2)

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

Service Appeal No. 1632-P/2022

Mr. Tashfeen Haider (PMS BS-19)
Special Secretary, Energy & Power Department

(Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary & others

(Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 01, 02 & 03.

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action/locus standi to file the instant appeal against the respondents.
2. That the present appeal is not maintainable.
3. That the appellant has presented the facts in manipulated form which disentitles him for any relief whatsoever.
4. That the appellant has not come to this Honourable Services Tribunal with clean hands.
5. That the appeal is hit by laches.
6. That the appeal is time barred.

Respectfully Sheweth ,

On Facts:

1. No Comments.
2. Correct.
3. Correct.
4. Correct to the extent of posting/transfer of the appellant. The appellant was posted against the following posts, in his own pay & scale, for the period as mentioned against each:-

| S # | Name of posts | From | To |
|-----|---|------------|------------|
| | PMS BS-17 | | |
| 1. | Establishment Department placed the services of officer (at the disposal of Erstwhile FATA Secretariat for further posting on 19.4.2011 (BS-17). However, the Department concerned itself posted him as Deputy Secretary (Admn) (BS-18), erstwhile FATA Secretariat without any consultation of E&AD. | 19.04.2011 | 21.04.2014 |
| 2. | Assistant Chief (BS-18), Capacity Building Project, P&DD | 22.04.2014 | 09.08.2015 |
| | Promoted to PMS BS-18 on 10.08.2015 | | |
| 3. | Deputy Commissioner (BS-19), Upper Kohistan | 10.01.2018 | 28.02.2018 |
| | <u>Note: The appellant was appointed in PMS BS-19, on acting charge basis on 28.02.2018</u> | | |

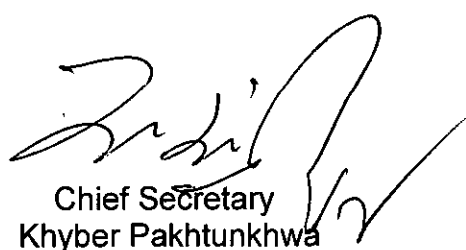
5. Pertains to record.

- 6. Correct to the extent that Establishment Department forwarded the case of higher post benefits of the appellant for the period w.e.f 22.04.2014 to 08.10.2015 and sanctioned was granted for the said period as covered under the policy in vogue (**Annex-I**)
- 7. Correct to the extent that the case was further processed accordingly.
- 8. Pertains to record.
- 9. Correct. The case of the appellant was duly examined and requested on the following grounds:
 - i. The officer had requested for higher post benefits of BPS-18 w.e.f 19.04.2011 to 13.10.2015 and BPS-19 w.e.f **13.10.2015 to 09.01.2018** which he was not entitled under the following provision of Finance Department's policy letter dated 01-01-2013:
"In cases of officers who are appointed to higher post by the competent authority and who discharge the duties of a higher post in their service/cadre, they would be allowed pay of the higher post only if they fulfil the prescribed conditions of promotion to the higher post as laid down in the Recruitment Rules and satisfactory completion of mandatory training (where so prescribed)".
 - ii. Whereas, as per Provincial Management Service Rules, 2007, 05 years service for promotion to BPS-18 and 12 years service for promotion to BPS-19 is required (**Annex-II**) which the officer did not possess during his posting at higher post as is evident from service history narrated above.
- 10. The request of the officer was processed and regretted on the ground mentioned above.
- 11. No comments.

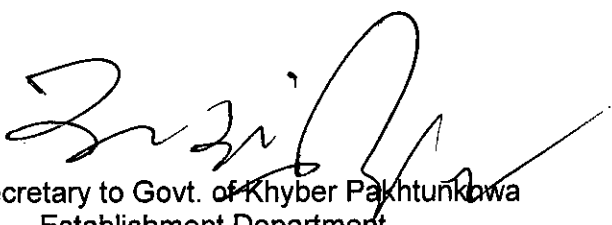
GROUNDS

- a. No comments.
- b. No comments.
- c. ~~Incorrect.~~ As explained above in para-09.
- d. Incorrect. As explained above in para-09.
- e. Incorrect. As explained above in para-09.

It is, therefore, most humbly prayed that the instant appeal, being devoid of merit, may please be dismissed with cost.


Chief Secretary
Khyber Pakhtunkhwa
(Respondent No.01)


Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department
(Respondent No.2)


Secretary to Govt. of Khyber Pakhtunkhwa
Establishment Department
(Respondent No.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1632-P/2022

Mr. Tashfeen Haider (PMS Officer BS-19).....Appellant

Versus

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

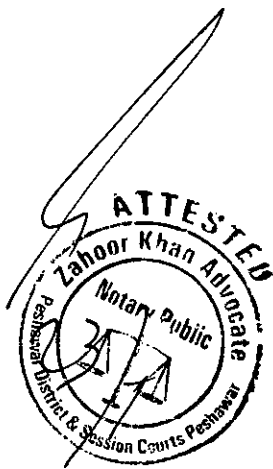
AFFIDAVIT

I Sultan Shah Superintendent (Litigation) Establishment Department do hereby solemnly declare that contents of the Reply are correct to the best of my knowledge and record and nothing has been concealed from this Honourable Tribunal.

Deponent

Sultan Shah
(Sultan Shah)

**Superintendent (Lit)
E & A Department
CNIC.17301-1286739-5
Mobile No. 0333-9391493**



(6)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION DEPARTMENT

AUTHORITY LETTER

Mr. Sultan Shah, Superintendent Litigation Section-I, Establishment Department, Government of Khyber Pakhtunkhwa is hereby authorized to submit Parawise Comments before the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 1632/2022 titled Mr. Tashfeen Haider Versus Govt. of Khyber Pakhtunkhwa, on behalf of Respondents.


(Respondent No. 01 & 03)



(V) Amir-I (90) 7
GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD (PRC) 1-1/2012
Dated Peshawar, Iha: 01-01-2013

To:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa
6. All Heads of Attached Departments in Khyber Pakhtunkhwa
7. All District Coordination Officers in Khyber Pakhtunkhwa
8. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
9. The Registrar, Peshawar High Court, Peshawar
10. The Chairman, Public Service Commission, Khyber Pakhtunkhwa
11. The Chairman, Services Tribunal, Khyber Pakhtunkhwa
12. All Divisional Commissioners in Khyber Pakhtunkhwa

Subject:

APPOINTMENT OF AN OFFICER OF LOWER GRADE TO A
POST OF HIGHER GRADE AND GRANT OF PAY OF THE
HIGHER POST.

Dear Sir,

In continuation of this Department's circular letter of even number dated 17-08-2012 on the subject noted above and to state that certain Departments have approached this Department for the grant of benefits of higher post to the incumbent appointed from a lower post, but while examining the cases a question has arisen as how to ascertain / examine the eligibility under the conditions of para-i(ii) of this Department's circular letter No.FD (PRC) 1-1/2012 dated 17-08-2012.

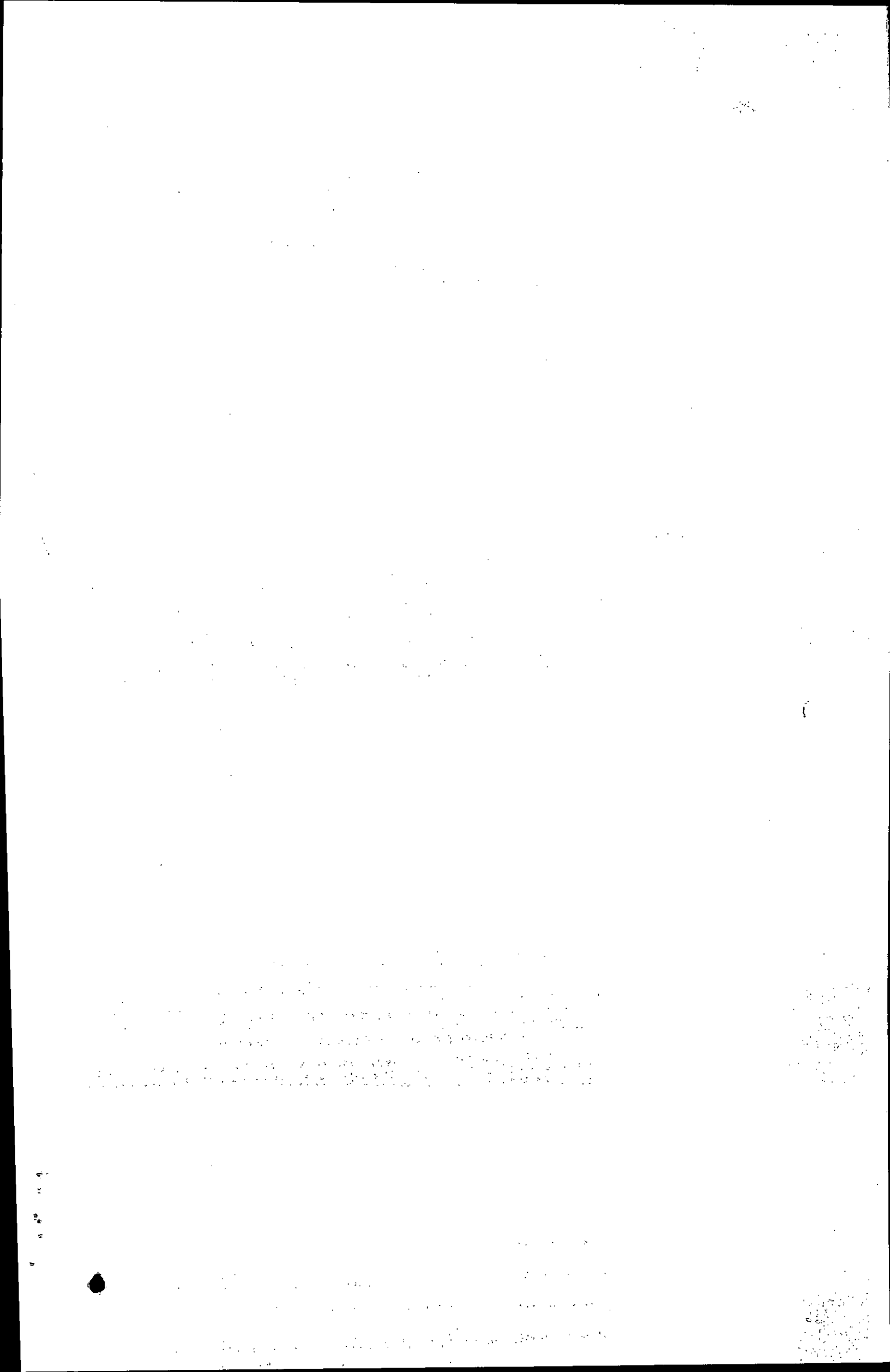
2. The case has been examined in consultation with Finance Division, Islamabad and clarification with regard to para-i(ii) of the Finance Department's circular letter No.FD (PRC) 1-1/2012 dated 17-08-2012 is as under:-

"In cases of officers who are appointed to higher post by the competent authority and who discharge the duties of a higher post in their service / cadre, they would be allowed pay of the higher post only if they fulfill the prescribed conditions of promotion to the higher post as laid down in the Recruitment Rules and satisfactory completion of mandatory training (where so prescribed)"

3. I am therefore, directed to request that before forwarding any case to the Finance Department the above provision should invariably be examined by the concerned department and the following documents / information should also be furnished to this Department for proper disposal of the cases on merit:-

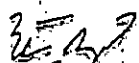
- i. Approval of the competent authority & notification.
- ii. Charge assumption report of higher post.
- iii. Charge relinquishment report of lower post.
- iv. Service statement duly attested by Accountant General / DDO etc.

Pertains to record.



- v. Completion certificate of mandatory training, where required.
- vi. Seniority list duly attested by concerned Administrative Department.
- vii. Specific conditions / requirements if any which necessitated the appointment of officer / official on higher post.
- viii. Reference of Recruitment Rules or copy of relevant recruitment rules applicable to the higher pay scale / post.

Yours Faithfully,



 (MUHAMMAD IMTIAZ AYUB)
 Additional Secretary (Regulation)

Endst: No. FD (PRC) 1-1 /2012.

Dated Peshawar the 1st Jan, 2013

A Copy is forwarded for information to the:-

- 1 Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2 Secretaries to Government of Punjab, Sindh & Balochistan, Finance Department.
- 3 All Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa.



 (MASOOD KHAN)
 Deputy Secretary (Reg:II)

Endst: No & Date even.

A copy for information is forwarded to:-

- 1 The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
- 2 All the District Comptroller of Accounts in Khyber Pakhtunkhwa.
- 3 The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
- 4 The Director, FMIU, Finance Department.
- 5 The Treasury Officer, Peshawar.
- 6 All the District & Agency Accounts Officers, Khyber Pakhtunkhwa / FATA.
- 7 All the Section Officers / Budget Officers in Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 8 The Private Secretary to Minister Finance, Khyber Pakhtunkhwa.
- 9 The Private Secretary to Secretary / P.As to Special Secretary, Additional Secretaries / Deputy Secretaries in Finance Department.




 (SHAUKAT ULLAH)
 Section Officer (SR-1)

on acting.

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF PHYSICS
530 SOUTH EAST ASIAN AVENUE
CHICAGO, ILLINOIS 60607

PHYSICS 311
LECTURE 10
MAY 1964

SCHEDULE-I

| No. | Nomenclature of posts as per detail at Schedule-II | Minimum qualification for appointment by initial recruitment | Age limit for initial recruitment | Method of recruitment |
|-----|--|--|-----------------------------------|---|
| | PMS(BS-17) as per detail at Schedule-II | Division Bachelor Degree from a recognized University. | 21-30 year | <p>1) Fifty per cent by initial recruitment on the recommendations of the Commission based on the result of competitive examination to be conducted by it in accordance with the provisions contained in ³Schedule - VII.</p> <p>2) Subject to rule 7, by promotion in the following manner:</p> <p>(a) twenty per cent from amongst Tehsildars, who are graduates, on the basis of seniority-cum-fitness, having five years service as Tehsildar and have passed the prescribed Departmental Examination; and <i>xx undergone a training course at the Pakistan Provincial Services Academy or</i></p> <p>(b) twenty per cent from amongst Superintendents /Private Secretaries on seniority-cum-fitness basis, who are graduate and have undergone a training course for 9 weeks at the Provincial Management Academy/Provincial Staff Training Institute. A joint seniority list of the Superintendents and Private Secretaries shall be maintained for the purpose of promotion on the basis of their continuous regular appointment to the respective posts.</p> <p>3) Ten per cent by selection on merit, on the basis of competitive examination, to be conducted by the Commission in accordance with the provisions contained in ⁴Schedule-VII, from amongst persons holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stenographers, Stenographers, Data Entry Operators, Computer Operators, Senior and Junior Clerks who possess post graduate qualification from a recognized University and have atleast five years service under Government.</p> |
| 2. | PMS(BS-18) as per detail at Schedule-II | NIL | | By promotion, on seniority-cum-fitness basis, from amongst the officers of PMS in BS-17 having at least five years service and have passed the prescribed Departmental Training or Departmental Examination. |
| 3. | PMS(BS-19) as per detail at Schedule-II. | NIL | | By promotion, on the basis of seniority-cum-fitness, from amongst PMS officers holding posts in BS-18 and having at least 12 years service against posts in BS-17 and above and have passed the prescribed Departmental Training/Examinations. |

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| 1. | 2. | 3. | 4. | 5. |
|----|--|-----|----|--|
| 4. | PMS(BS-20) as per detail at Schedule-II. | NIL | - | By promotion on the basis of selection-on-merit. from amongst PMS officers holding posts in BS-19 and having at least 17 years service against posts in BS-17 and above and have undergone Advance Training Course from NIPA or any other training course prescribed by Government. |
| 5. | PMS(BS-21) as per detail at Schedule-II. | NIL | - | By promotion, on the basis of selection-on-merit from amongst PMS officers holding posts in BS-20 and having at least 22 years service against posts in BS-17 and above and have undergone Course from Pakistan Administrative Staff College/National Defence College or from any other training Institute prescribed by Government. |

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³ The Word Schedule-IV replaced by Schedule VII vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007
⁴ The Word Schedule-IV replaced by Schedule VII vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007