

**SERVICE APPEAL NO. 207/2022**

**Engr. Sohail Khan and others**

**Petitioner**

***VERSUS***

**Chief Secretary, Khyber Pakhtunkhwa & others**

**Respondents**

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

**Service Appeal No. 207/2022**  
**Engr. Sohail Khan & Others**

**Petitioners**

**VERSUS**

**Chief Secretary, Khyber Pakhtunkhwa & Others**

**Respondents**

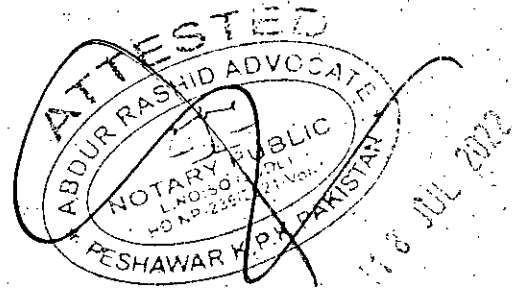
**AFFIDAVIT**

I, Zafrullah, Superintendent, Irrigation Department do hereby affirm and declare on oath on behalf of Respondents that the contents of the Para-wise comments are true and correct to the best of my knowledge and believe that nothing has been kept concealed from this Khyber Pakhtunkhwa Service Tribunal.

**Deponent**

*Zafrullah*  
20/07/22  
Zafrullah

Superintendent, Litigation Section  
Irrigation Department



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

**Service appeal No. 207/2022**

Engr. Sohail Khan and others.....**Appellants**

**Versus**

Chief Secretary, Khyber Pakhtunkhwa and others ..... **Respondents**

**JOINT PARA-WISE COMMENTS ON BEHALF OF THE RESPONDENT NO. 01 to 05**

**RESPECTFULLY SHEWETH:**

**Preliminary objections:**

1. That the appellant has got no cause of action/locus standi.
2. That the appellant has not come to this court with clean hands.
3. That the appellant has concealed some material facts from this Hon'ble Court.
4. That the appellant is disentitled for the relief claimed.
5. That the appeal of the appellant is time barred.
6. That the appeal is bad for misjoinder and nonjoinder of necessary parties.

**ON FACTS**

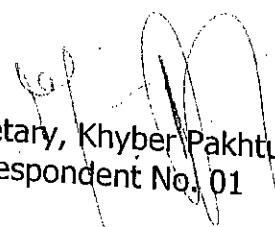
1. **Pertains to record.**
2. **Correct** to the extent that the appellant is a civil engineer and not mechanical engineer. It is further added that the service rules quoted in the said para were applicable till 24.08.2021 and afterwards the Irrigation Department vide notification no. SOE/Irr/23-5/73/Vol-VI dated 24.08.2021, in consultation with Establishment Department, Finance Department and Law Department, has allocated 12% quota for promotion of SDOs having B-Tech Honor Degree Holder and 08% quota for promotion of Diploma Holder SDOs through proper forum of Standing Service Rules Committee (SSRC).
3. **Incorrect**, to the extent that B-Tech and Diploma Holder Sub Engineers of Irrigation Department were granted quota for promotion to BS-17 in 2011. It is also clarified that the Civil Servants are governed under Civil Servant Act, 1973 and not under PEC Act, 1976.
4. Para-03 above reiterated.
5. **Incorrect.** The appeal of the appellant was properly examined and filed being devoid of merit.

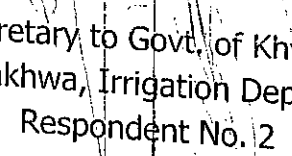
**GROUND:** -

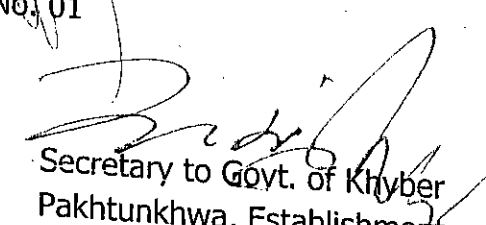
1. **Incorrect.** Every Civil Servant has right for carrier progression through promotion and the Irrigation Department, in consultation with Establishment Department, Finance Department and Law Department, has allocated 12% quota for promotion of SDOs having B-Tech Honor Degree Holder through proper procedure of Standing Service Rules Committee (SSRC) (**Annex-I**).
2. **Incorrect.**
3. At present Irrigation Department eighty percent quota has been fixed for BE/BSc Civil and Mechanical Engineers and mostly Engineers having degree in BE/BSc Engineer are posted and working against the post of Executive Engineer.
4. **Incorrect.** The Irrigation Department, in consultation with Establishment Department, Finance Department and Law Department, has allocated 12% quota for promotion of SDOs having B-Tech Honor Degree Holder through proper procedure of Standing Service Rules Committee (SSRC).
5. The Competent Forum in term of appointment, promotion and transfer Rules is standing services Rule committee. The recommendation other than SSRC is not binding upon the Department for implementation.
6. **Incorrect.** Para-3 above is reiterated.
7. **Incorrect.**
8. **No Comments.**
9. **Incorrect.** Every Civil Servant has right for carrier progression through promotion and the Irrigation Department, in consultation with Establishment Department, Finance Department and Law Department through competent forum of standing service rules committee fixed 12% quota for SDOs having B-Tech Honor Degree Holder through proper procedure of Standing Service Rules Committee (SSRC).
10. The Civil Servants are governed under the Civil Servant Act, 1973 and rules made thereunder and not by the PEC Act, 1976.
11. The Supreme Court of Pakistan in C.P. No. 78-K of 2015 case titled "Maula Bux Shaikh" Versus Chief Minister Sindh and others announced on 03.10.2018 has allowed the B-Tech Honor Degree Holder and Diploma Holder for promotion to the post of Executive Engineer (**Annex-II**).

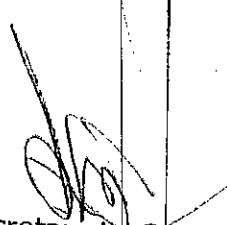
12. Para-11 above reiterated.  
13. **No Comments.**  
14. Para-10 above is reiterated.  
15. Incorrect. Para-10 above is reiterated.  
16. Incorrect. Para-10 above is reiterated.  
17. No Comments.  
18. No Comments.  
19. Para-10 and para-12 above are reiterated.  
20. No Comments.

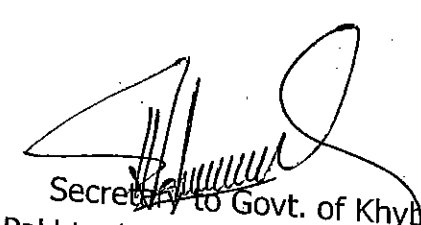
It is, therefore requested that the service appeal being devoid of merits may be dismissed with cost, please.

  
Chief Secretary, Khyber Pakhtunkhwa  
Respondent No. 01

  
Secretary to Govt. of Khyber  
Pakhtunkhwa, Irrigation Department  
Respondent No. 2

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

  
Secretary to Govt. of Khyber  
Pakhtunkhwa, Law, Parliamentary  
Affairs & Human Rights Department  
Respondent No. 4

  
Secretary to Govt. of Khyber  
Pakhtunkhwa, Finance Department  
Respondent No. 5



GOVERNMENT OF KHYBER PAKHTUNKHWA  
IRRIGATION DEPARTMENT

Annex - I

Dated Peshawar the 24<sup>th</sup> August, 2021

NOTIFICATION

No. SO(E)/IRRI/23-5/73/Vol-VI:

In pursuance of the provisions contained in sub-rule (2) of rule-3, of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Irrigation Department, in consultation with the Establishment Department and Finance Department, hereby direct that in this Department's Notification No. SO(E)IRR/23-5/73 dated 17.02.2011, the following further amendments shall be made namely:-

AMENDMENTS

In the APPENDIX -

- (a) under the heading "PART-I ENGINEERING STAFF", against Serial No. 3, in Column No. 5, for the existing entries, the following shall be substituted, namely:-

5	
(a)	Eighty percent (80%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Engineer, Sub Divisional Officer and Assistant Director possessing Degree in B.E/B.Sc Engineering (Civil or Mechanical) from a recognized University with at least five years service as such and have passed the Professional or Revenue Examination under the prescribed rules;
(b)	twelve percent (12%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Engineer, Sub Divisional Officer and Assistant Director possessing Degree in B. Tech (Hons) from a recognized University with at least five years service as such and have passed the Professional and Revenue Examination under the prescribed rules; and
(c)	eight percent (08%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Engineer, Sub Divisional Officer and Assistant Director possessing Diploma of Associate Engineering in (Civil, Mechanical, Auto and Electrical) Technology from a recognized Board of Technical Education with at least five years service as such and have passed the Professional and Revenue Examination under the prescribed rules.
<b>Note:</b> A separate seniority list of all the three categories of the Assistant Engineers, Sub Divisional Officers and Assistant Directors shall be maintained for the purpose of promotion"; and	

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(b)

under the heading "PART-V DRAWING ESTABLISHMENT", against Serial No. 26, in Column No. 5, for the existing entries, the following shall be substituted, namely:

5	
(a)	Seventy percent (70%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Tracer who have qualified the prescribed Examination of Draftsman with three years service as such; and
(b)	thirty percent (30%) by initial recruitment".


Secretary to Govt. of Khyber Pakhtunkhwa  
Irrigation Department

**Endst: No and date even**

Copy of the above is forwarded:-

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Secretary to Governor, Khyber Pakhtunkhwa.
3. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The Additional Accountant General (PR, Sub Office), Peshawar.
6. All the Commissioners in Khyber Pakhtunkhwa.
7. The Chief Engineers (North)/South & Merged Areas) Irrigation Department, Khyber Pakhtunkhwa.
8. All Deputy Commissioners in Khyber Pakhtunkhwa.
9. The Registrar, Peshawar High Court, Peshawar.
10. The Secretary, Board of Revenue, Khyber Pakhtunkhwa.
11. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
12. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
13. PS to Chief Secretary, Khyber Pakhtunkhwa.
14. PS to Secretary Irrigation Department, Peshawar.
15. The Manager Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar. He is requested to supply 200 copies of the printed gazette, for further distribution.
16. PA to Additional Secretary, Irrigation Department, Peshawar
17. PA to Deputy Secretary (Admn) Irrigation Department.

  
Section Officer (Litigation)  
Irrigation Department Peshawar

  
(ABDUL RAUF)  
Section Officer (Estt)

20/8/21

**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

Annex- II

**Present:**

Mr. Justice Gulzar Ahmed  
Mr. Justice Qazi Faez Isa  
Mr. Justice Sardar Tariq Masood

**C.P.No.78-K of 2015**

[On appeal against order dated 21.11.2014  
passed by the Sindh Service Tribunal,  
Karachi, in Appeal No.195 of 2014]

Maula Bux Shaikh & others

**Petitioner(s)**

**VERSUS**

Chief Minister Sindh & others

**Respondent(s)**

For Petitioner No.1	: Mr. Salah-ud-Din Ahmed, ASC
For Petitioner Nos.2-3	: Mr. Rasheed A Rizvi, Sr. ASC
For Respondent Nos.1-4	: Mr. Sabtain Mehmood, Asstt:A.G. Sindh
For Respondent No.5	: Mr. Ghulam Haider Shaikh, ASC
For Respondent Nos.6-7 & 9	: Nemo
For Respondent Nos.8 & 12	: Dr. Muhammad Farough Naseem, ASC
For Rspdnt Nos.10-11, 13-17	: Mr. M. Aqil Awan, Sr. ASC
Date of Hearing	: 24.04.2018

**JUDGMENT**

**GULZAR AHMED, J.**— Maula Bux Shaikh, Petitioner No.1, (**the Petitioner**) had filed a Service Appeal before the Sindh Service Tribunal, Karachi, (**the Tribunal**) challenging Notification No.SOI(W&S)E/12-1/2005 dated 19.03.2014 to be ultra vires the Pakistan Engineering Council Act, 1976 (**PEC Act**). The circumstances under which the Service Appeal was filed by the Petitioner are that he was employed as Sub Engineer BS-11 in the year 1985 in the Works and Services Department, Government of Sindh, Karachi. He was

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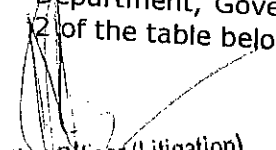


promoted as Assistant Engineer BS-17 in the year 1997 and since then has been serving in such post in his said department. The case of the Petitioner is that he is a qualified engineer holding degree of Bachelor of Engineering. He has unblemished service record and is eligible for promotion to the post of Executive Engineer BS-18 but on account of the notification, referred to above, his chance for promotion as Executive Engineer BS-18 has been gravely diminished for the reason that said notification has provided 13% promotion quota to Diploma holders and 7% promotion quota to B.Tech (Hons) Degree holders for the post of Executive Engineer BS-18. The grievance of the Petitioner is that the post of Executive Engineer BS-18 being that of a purely professional engineering work could only be performed by a professional engineer holding accredited engineering qualification, as provided in the PEC Act.

2. We have heard learned ASCs for the parties at length and have gone through the record of the case. The learned ASCs for the parties have also filed their written note of arguments, which too have been perused by us.
3. The notification dated 19.03.2014 is as follows:

**NOTIFICATION**

**No.SOI(W&S)E.W/12-1/2005:** In pursuance of Sub-Rule (2) of Rule-3 of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules 1974 and in consultation with the Services, General Administration & Coordination Department, Government of Sindh, and in partial modification of this Department's Notification No. EI(C&W)1-34/81-84(86) dated 14.01.1987, the method, qualification and other conditions for appointment in respect of the post of Executive Engineer (BPS-18) (Civil/Mechanical/Electrical) in Works & Services Department, Government of Sindh mentioned in column-2 of the table below:-

  
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TABLE

Name of the post with BS	METHOD OF APPOINTMENT
1	2
Executive Engineer (Civil/Mechanical & Electrical) (BPS-18)	<p>i) Eighty percent by promotion from amongst the Assistant Engineers B.E. in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology.</p> <p>ii) Thirteen percent by promotion from amongst the Diploma holder Assistant Engineers having Diploma in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology and</p> <p>iii) Seven percent by promotion from amongst the Assistant Engineers having B.Tech (Hons) degree in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology.</p>

QAZI SHAHID PERVEZ  
SECRETARY TO GOVT. OF SINDH"

4. In order to regulate the engineering profession, the Parliament has passed PEC Act on 10.01.1976. Section 2(ii) of the PEC Act defines accredited engineering qualification, which is as follows:

**"accredited engineering qualification"** means any of the qualification included in the First Schedule or the Second Schedule"

5. It is common ground that neither Diploma nor B.Tech (Hons) Degree are accredited engineering qualification for the reason that there is no reference to the Diploma and B.Tech (Hons) Degree in the accredited engineering qualification provided in the first and second schedule of the PEC Act. Thus, accredited engineering qualification is ascribed to those who hold Bachelor Degree in Engineering from

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Irrigation Department Peshawar

engineering, electrical engineering, mechanical engineering and biomedical engineering etc;

(h) organizing, managing and conducting the teaching and training in engineering universities, colleges, institutions, Government colleges of technology, polytechnic institutions and technical training institutions;

(i) preparing standard bidding or contract documents, construction cost data, conciliation and arbitration procedures; guidelines for bid evaluation, prequalification and price adjustments for construction and consultancy contracts; and

(j) any other work which the Council may, by notification in the official Gazette, declare to be an engineering work for the purposes of this Act;"

8. Registered Engineer is defined in Section 2(xxvii) as follows:

**"registered engineer"** means a person who holds an accredited engineering qualification, whether working privately or in the employment of an engineering public organization and is registered as such by the Council. Registered Engineer shall perform all professional engineering works except independently signing design.

9. Section 10(1) of the PEC Act provides:


*"The engineering qualifications granted by engineering institutions in Pakistan which are included in the First Schedule shall be the accredited engineering qualifications for the purposes of this Act."*

10. While section 11(1) provides:

*"The engineering qualifications granted by engineering institutions outside Pakistan which are included in the Second Schedule shall be accredited engineering qualifications for the purposes of this Act."*

11. Section 27 of the PEC Act provides for penalties and procedure, which is as follows:

**"27. Penalties and procedure.**— (1) After such date as the Federal Government may, after consultation with the Council, by notification in the official Gazette, appoint in this behalf, whoever undertakes any professional engineering work shall, if his name is not for the time being borne on the Register, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

  
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Irrigation Department Peshawar

engineering, electrical engineering, mechanical engineering and biomedical engineering etc;

(h) organizing, managing and conducting the teaching and training in engineering universities, colleges, institutions, Government colleges of technology, polytechnic institutions and technical training institutions;

(i) preparing standard bidding or contract documents, construction cost data, conciliation and arbitration procedures; guidelines for bid evaluation, prequalification and price adjustments for construction and consultancy contracts; and

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Irrigation Department Peshawar

(2) After the date appointed as aforesaid, whoever employs for any professional engineering work any person whose name is not for the time being borne on the Register shall be punishable, on first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and on a second or subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

(3) Whoever willfully procures or attempts to procure himself or itself to be registered under this Act as a registered engineer, professional engineer, consulting engineer, constructor or operator by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, and any person who assists him therein shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(4) Whoever falsely pretends to be registered under this Act, or not being registered under this Act, uses with his name of title any words or letters representing that he is so registered, irrespective of whether any person is actually deceived by such pretence or representation or not, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(5) No person undertaking any professional engineering work shall, unless he is registered under this Act, be entitled to recover before any court or other authority any sum of money for services rendered in such work.

(5A) No person shall, unless registered as a registered engineer or professional engineer, hold any post in an engineering organization where he has to perform professional engineering work.

(6) No court shall take cognizance of any offence punishable under this Act save on complaint made by, or under the authority of, the Council.

(7) No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act."


12. The main gist of the arguments of the learned ASC appearing for the petitioners is that the work of Executive Engineer BS-18 is strictly that of a Professional Engineer and it can only be performed by a Professional Engineer, who has engineering degree from an Accredited Engineering Institution of Pakistan or abroad as included in the first and second schedule of the PEC Act, Diploma holders and B.Tech

  
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Termination Department Peshawar

(Hons) Degree holders are not professional engineers and cannot perform work of a Professional Engineer and that law specifically provides penalties to those who perform professional engineering work without possessing accredited engineering qualification and registered as Professional Engineer by the Pakistan Engineering Council (**the Council**).

13. On the other hand, learned ASC appearing for the respondents have contended that this very issue has come up before this Court number of times and this Court has dealt with it time and again and held that in the matter of employment and promotion etc, the Government Institutions are legally entitled to take decisions as a matter of policy to grant promotion to employees in Engineering Public Organization who are Diploma holders in engineering and B.Tech (Hons) Degree holders.

14. We have noted that the Tribunal in the impugned judgment has referred to number of judgments of this Court and the point in issue in those judgments substantially also deals with the present controversy before us. Thus before dilating upon the matter, it is essential that we examine the judgments, which this Court has already delivered and are also referred in the impugned judgment of the Tribunal. The first case in line is a judgment of three members bench of this Court in the cases of PAKISTAN DIPLOMA ENGINEERS FEDERATION (REGISTERED) THROUGH ITS CHAIRMAN V/s FEDERATION OF PAKISTAN THROUGH SECRETARY MINISTRY OF WATER & POWER, GOVERNMENT OF PAKISTAN, ISLAMABAD & 9 OTHERS (1994 SCMR 1807). In this case the question involved was whether the Diploma Engineers employed in Pakistan Railways can be debarred from promotion to Grade-18 on the

  
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ground that they are not registered as "professional engineers and consulting engineers" with Pakistan Engineering Council even though they were otherwise by reasons of their seniority etc eligible for promotion to Grade-18. While referring to the case of MUHAMMAD AZIM JAMALI AND 11 OTHERS V/S GOVERNMENT OF PAKISTAN, THROUGH SECRETARY/ CHAIRMAN, MINISTRY OF RAILWAYS, AND 33 OTHERS (PLJ 1992 Karachi 1) = (1992 PLC(CS) 637), where split decision was given by two Hon'ble Judges of Sindh High Court and ultimately it was referred to a Referee Judge for his opinion. This Court in dealing with the case before it relied upon the conclusion reached by the Referee Judge and quoted the same in the judgment as follows :

"16. The conclusion of the learned Chief Justice was expressed as follows:

"A careful reading of subsections (1) and (2) of section 27 of the Act will show that the penalties prescribed in the section are attracted only against those persons who are not registered under the Act but undertake any professional engineering work as defined in the Act. Similarly, the person who employs a person who is not registered under the Act, on a professional engineering work, is equally liable for punishment under the Act. The above provisions are wide enough to include the cases of those persons who may be employed in any private or Governmental organization and are called upon to undertake any professional engineering work. The provisions of the Act, regarding registration of professional engineer and consulting engineer, therefore, in my view, would not be applicable to the persons serving as engineer with the Railways, as in course, of their such employment they neither act as 'professional engineer' nor as 'consulting engineer'. However, if such persons undertake any professional engineering work as defined under the Act, then the provisions regarding registration under the Act will be attracted and they could also be punished in accordance with the provision of section 27 of the Act for violating the provision of the Act."

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15. On the basis of such conclusion of the Referee Judge, this Court proceeded to make its own observation, which is as follows:

17. The above judgment of the High Court was not challenged either by the qualified engineers who held degrees from recognized Institutions of Pakistan nor by the diploma-holders but only by the Pakistan Engineering Council (which was one of the respondents in the Constitution Petition filed in the High Court). According to the Pakistan Engineering Council, the provisions of the Pakistan Engineering Council Act had not been correctly interpreted because the judgment of the majority in the High Court, it appeared to the Council had laid down that the Act applied to engineers engaged in professional engineering works in the private sector whereas the application of provisions of the Act according to them, could not be restricted only to the private practitioners alone.

18. We on the other hand after hearing Mr. Abid Hassan Minto learned Advocate for the appellant at considerable length consider that this is not a correct interpretation of the judgment of the High Court. The High Court has clearly stated that the provisions of the Act were wide enough to include cases of those persons engaged in professional engineering works whether employed in any private or Governmental organization, if they are called upon to undertake any professional engineering work, as defined under the Act. In fact in the connected case C.A.No.31 of 1992 a Committee of Secretaries constituted by the Punjab Government correctly summed up the true position obtaining in the Act as follows:--

"The Committee was of the view that the Government could appoint a non-graduate engineer to a post in any grade but if the post involved performance of professional engineering work such appointment would attract penalties prescribed in the Act.

The finding of the Referee Judge in this case is to the same effect and in our opinion this finding is quite correct."

16. The next case in line is a judgment of five member bench of this Court in the case of FIDA HUSSAIN V/S THE SECRETARY, KASHMIR AFFAIRS AND NORTHERN AFFAIRS DIVISION, ISLAMABAD & ANOTHER (PLD 1995 Supreme Court 701). In this case facts were that petitioner was appointed as Overseer/Sub-Engineer in northern area PWD in

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Irrigation Department, Peshawar



1971. The Federal Government, in order to encourage the diploma holders to improve their academic qualification resolved to prescribe courses namely B.Tech (Pass) and B.Tech (Hons). The later was treated as equivalent to B.Sc. (Engineering) and Bachelor of Engineering for the purpose of promotion. Petitioner having passed B.Tech (Pass) and B Tech (Hons) was denied promotion in BPS-17 for the reasons that B.Tech (Hons) was not recognized by Pakistan Engineering Council as equivalent to B.Sc. (Engineering) Degree. Petitioner filed Service Appeal, which was dismissed. The Appeal filed by the petitioner before this Court was also dismissed. The petitioner then applied for review, which was allowed and the judgment dismissing the Civil Appeal was recalled and his appeal was allowed with directions to consider the petitioner's case of promotion to BS-17. The Court while allowing relief to the petitioner observed as follows:

"9. In this regard, we may point out that it is the domain of the Government concerned to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one Grade to another higher Grade and whereas it is in the domain of the Pakistan Engineering Council to decide, as to whether a particular academic qualification can be equated with another academic qualification, but it has no power to say that the civil servants/employees holding particular academic qualification cannot be promoted from a particular Grade to a higher Grade. The main object of the Act as pointed out by one of us (Ajmal Mian, J.) and Saiduzzaman Siddiqui, C.J. (as he then was) in the above High Court judgment is to regulate the working of professional engineers and consulting engineers and not to regulate the qualification or the working of the engineers in the Government or semi-Government departments. The definitions of the terms "professional engineer" and "professional engineering work" given in clauses (j) and (k) of section 2 of the Act are to be read together and, therefore, as a corollary to the same, it must follow that the term "professional engineering work" as defined in clause (k) of section 2 of the Act is to be performed by a professional engineer as defined in clause (j) thereof, which is evident from section 8 of the Act, which defines the functions of the Pakistan Engineering Council as under:-

8. Functions of the Council.--- The following shall be the functions of the Council, namely:--

Section 17(1)(a) of A. (Irrigation)  
Irrigation Department Peshawar

- (a) maintenance of a Register of person qualified to practice as professional engineers and consulting engineers;
- (b) recognition of engineering qualifications for the purpose of registration of professional engineers and consulting engineers;
- (c) removal of names from the Register and restoration to the Register of names which have been removed;
- (d) laying down of standards of conduct for the members;
- (e) safeguarding the interest of the members;
- (f) promotion of reforms in the engineering profession;
- (g) management of the funds and properties of the Council;
- (h) Promotion of engineering education and review of courses of studies in consultation with the Universities;
- (i) levy and collection of fees from applicants for registration or temporary licences and members;
- (j) exercise of such disciplinary powers over the members and servants of the Council as may be prescribed;
- (k) formation of such committees as may be prescribed; and
- (l) performance of all other functions connected with, or ancillary or incidental to, the aforesaid functions."

A perusal of the above quoted section shows that the Pakistan Engineering Council is vested with the functions to regulate the persons qualified to practice as professional engineers and consulting engineers and not persons who are employed in the Government or semi-Government organisations. If the Government employs a professional engineer as defined in the Act for performing professional engineering work as envisaged by the Act in above clause (k) of section 2, the provisions of the Act would be attracted and not otherwise.


10. Reverting to the merits of the present case, as pointed out hereinabove, that the petitioner pursuant to the above decision of the Government of Pakistan dated 26.10.1973 passed his B.Tech (Pass) in 1977 and B.Tech (Honours) in March, 1981, from the NED University Karachi, and, therefore, acted upon the above representation of the Government. In this view of the matter, it is not just and fair not to consider the petitioner

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for promotion to BPS-17 keeping in view the admitted fact that a number of other civil servants/employees in the same department in the same position have been promoted by the departments/organisations concerned. In this behalf, it may be pertinent to refer to the case of Mukhtar Ahmad and 37 others v. Government of West Pakistan through the Secretary, Food and Agriculture, Civil Secretariat, Lahore and another (PLD 1971 SC 846). The fact of the above case were that the persons possessing the qualifications mentioned in Rule 7 of the West Pakistan Agricultural Engineering Service (Class II) Rules, 1963 were not available. The Government launched a scheme for training of Assistant Agricultural Engineers, whereunder 46 Graduates in B.Sc. Agriculture were to be selected for appointment as Assistant Agricultural Engineers after their successful completion of two years' diploma course at an Agricultural University. The above scheme was discussed by the government with the Public Service Commission. The candidates selected by the Public Service Commission, who were about to complete their training of two years, were informed by the government that they would have to appear again before the Public Service Commission to be selected for appointment to the posts of Assistant Agricultural Engineers (Class-II). The candidates asserted that after the completion of their training they were entitled to be appointed as Assistant Agricultural Engineers (Class-II) in terms of the offer made to them and they could not be required to appear again before the Public Service Commission for such appointment. On the other hand, the Government contended that the candidates did not possess the qualification prescribed by Rule 7 of the West Pakistan Agricultural Engineering Service (Class II) Rules, 1963, for appointment to such posts. The matter came up for hearing before this Court in the form of an appeal with the leave of this Court filed by the candidates against the judgment of a Division Bench of the erstwhile High Court of West Pakistan. The same was allowed and inter alia the following was concluded:--

"The offer of the Government and its acceptance by the appellants constituted a valid agreement and they Governor's order dated the 1<sup>st</sup> July, 1965 provided the authority for such an agreement. This agreement is capable of being enforced in law. The Government was both competent and obliged to implement that agreement. When the Governor's order, dated the 1<sup>st</sup> July, 1965, provided a special authority for recruitment to the 46 posts of Assistant Agricultural Engineers, rule 7 of the Recruitment Rules was not applicable in this case."

11. The above case supports the petitioner's stand. Another aspect which escaped notice of this Court in the judgment under review is that some of the other civil servants/employees placed in the same position as the petitioner was had been considered for promotion to BPS-17 and in fact were promoted, whereas the petitioner was

  
Section Officer (Litigation)  
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denied the above benefit which amounted to violation of inter alia Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973. In this regard, reference may be made to the case of I.A. Sherwani and others v. Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041).

12. The judgment of this Court in the case of Muhammad Siddique Nasim (supra) relied upon by the Tribunal is distinguishable for more than one reason, firstly, in the above case the notification of the Government of Punjab dated 8.2.1961 equivalising B.Tech (Honours) with B.Sc Engineering degree was withdrawn on 15.03.1985, whereas the petitioner received degree of B.Tech (Honours) in June, 1985, i.e. after the withdrawal of the notification whereas in the present case, admittedly the petitioner passed his B.Tech (Honours) in March, 1981, before the Pakistan Engineering Council through its Registrar's above letter dated 24.4.1984 stated that there was typographical error in the above-quoted portion of its Registrar's letter dated 30.04.1981. Secondly, in the judgment in the case of Pakistan Diploma Engineers Federation (Registered) through its Chairman (supra), this Court affirmed the majority view of the High Court of Sindh in the case of Muhammad Azim Jamali (supra), in which it has been held that the provisions of the Act are applicable only to professional engineers and consulting engineers who are in practice and not to the persons working in the Government departments, autonomous bodies, local authorities and private firms or companies.

13. We may again observe that it is exclusively within the domain of the Government to decide whether a particular qualification will be considered sufficient for promotion from a particular Grade to a higher Grade and it is also within the domain of the Government to change the above policy from time to time as nobody can claim any vested right in the policy. However, it cannot abdicate its power to decide the above question in favour of a corporate body which is not in its control nor it can act in a manner which may be violative of Article 25 of the Constitution on account of being discriminatory. It is still open to the Government for future to provide that academic qualification of B.Tech (Honours) will not be considered sufficient for promotion from BPS-16 to BPS-17 if the same does not violate the above principle."

17. Next case is a judgment of two members bench of this Court in the case of MUHAMMAD YOUNUS AARAIN V/S PROVINCE OF SINDH THROUGH CHIEF SECRETARY, SINDH, KARACHI & 10 OTHERS (2007 SCMR 134). The case before the Court was of promotion to BS-20 by a Diploma holder employee. The Court dealt with the subject and observed as follows:

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Irrigation Department Peshawar

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"7. The basic qualification for a professional engineer under the law is B.Sc. degree in engineering from a recognized institution in Pakistan and diploma in engineering is not a recognized qualification for a professional engineer in terms of PEC Act, 1976. The service rules governing the service of the petitioner (SCUG Service Rules, 1982) and the promotion policy of the Government of Sindh, would neither override the provisions of the above Act nor relax the requirement of basic qualification of professional engineer for a promotion to BPS-20 in the engineering branch of Government of Sindh. The relevant provision of SCUG Service Rules, 1982, is reproduced hereunder:--

"V-Engineering Branch.

1. Grade 20 By selection on merit from among the members of the service in Grade-19 of the Engineering Branch with at least 17 years experience as such in Grade-17 and above."

8. The above rule envisages clearly that a person can be considered for promotion to BPS-20 in the Engineering Branch of Government of Sindh, subject to fulfilment of the condition of basic qualification of a professional engineer prescribed under Pakistan Engineering Council Act, 1976 and a diploma holder being not a professional engineer in terms of PEC Act, 1976 cannot hold a post carrying responsibilities of a qualified professional engineer. The eligibility of a person for promotion from BPS-19 to BPS-20 in the Engineering Department of Government of Sindh is subject to the fulfilment of the requirement of basic qualification with requisite experience as provided in SCUG Service Rules, 1982 in the relevant field therefore, neither any concession could be given to the petitioner in the matter of his eligibility to hold the post in BPS-20 nor the requirement of basic qualification could be relaxed by the Court or by Selection Board. The careful examination of rules on the basis of which petitioner asserted the claim of promotion to BPS-20 against the post carrying responsibilities of a professional engineer, would show that his claim was without any substance and that a diploma holder on the basis of his experience alone, would stand at par to a person registered as professional engineer with Pakistan Engineering Council."


18. The other case is a judgment of three members bench of this Court in the case of NAZIR-UL-HASAN & 2 OTHERS V/S SYED ANWAR IQBAL & OTHERS (2014 SCMR 1827). In this case, respondent No.1 was working as an Assistant Director BS-17. The petitioners were senior to him and were promoted to BS-18 despite the fact that petitioners were holding qualification of Diploma whereas respondent

  
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No.1 was Bachelor of Engineering (Electrical). The respondent No.1 challenged the promotions of petitioners in the High Court. The High Court set aside all promotions of petitioners on the ground that they did not hold valid engineering degree. This Court in the reported judgment has dealt with the matter and observed as follows:-

"6. Admittedly the petitioners were Assistant Directors in the respondent Authority with at least 5 years service in the relevant field and hence in our opinion they fulfill the requirement. It would be seen that when the petitioners were considered for promotion in 2012 the rules in force were the Pakistan Standards Institution Recruitment Rules for class one posts wherein per rule 5 the post of deputy Directors to be filled in by promotion could be done from amongst Assistant Directors category one with at least 5 years service in the Institution. Nowhere in the said rules was it provided that they would be professional engineers or for that matter even diploma holders. If fact such condition is prescribed in rule 6 which provides for direct appointments whereby per the schedule to the same an Assistant Director must hold a Master's Degree in Science or Bachelors Degree in Engineering in the specified field from a recognized university with at least 3 years experience in that field etc. Admittedly, the petitioners were appointed by promotion and hence in our opinion no such condition can be placed upon them as in the case of a direct appointees. Insofar as the case of Muhammad Younus Aarain (supra) is concerned, the same is distinguishable on facts as therein it was found that under Sindh Council Unified Grades Services Rules the basic qualification for promotion to BS-20 was that the candidates should have B.Sc. Degree in Engineering. As observed above this is not the case in the present matter. It would further be seen that now per section 26 of the Pakistan Standards and Quality Control Authority Act, 1996 rules have been framed which have been notified in the official gazette on 15<sup>th</sup> May, 2013. Under Rule 5 promotion to the post in BS-1 to 19 shall be made on the basis of seniority-cum-fitness etc. and he or she should also fulfil the conditions contained in schedule to the rules according to which for promotion to the post of Deputy Director Technical the eligible person would be an Assistant Director Technical and he should have 5 years experience in BS-17 in technical matters. Nowhere has it been prescribed that he or she should be a qualified engineer.


7. In the circumstances, we find that the impugned order has unnecessarily been influenced by the comments of the Pakistan Engineering Council that no post carrying any Engineering responsibility could be entrusted to non-engineering graduates. In our opinion, it is for the department/institution itself to determine as to whether the, persons in its service are fit to hold a particular position. In the present case it has been done by the

  
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authority and rules have been framed thereunder which have been followed by the promotes/petitioners. Consequently the impugned order is set aside and the promotion of the petitioners is upheld."

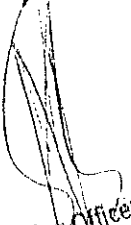
19. On examination of above case law, we note that nowhere in the judgments, the government power to prescribe for qualification and other conditions of service for promotion to a post has been assailed nor the judgments have put any sort of embargo on the government in prescribing the qualification and other conditions of service for a post for the purpose of promotion. Having said this, the judgments as discussed above, have rather focused on the government power in this regard to be unfettered to the extent that it is not in derogation of any law or provisions of the Constitution.

20. Further, the main principle that is deductible from the above judgments of this Court is that it is the domain of the Government to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one grade to another higher grade and whereas it is in the domain of the Pakistan Engineering Council to decide whether a particular academic qualification can be equated with another academic qualification but it has no power to say that the civil servants/employees holding particular academic qualification cannot be promoted from a particular grade to a higher grade. Thus on the basis of above pronouncements of this Court, it is clear that the notification dated 19.03.2014 cannot be validly or justifiably challenged on the ground that it impinges or infringes upon any of the provisions of PEC Act, 1976 and thus would be ultravires. No such finding can justifiably be recorded in that as it has been laid down quite empathetically that the government exercises its own power under the domain of law with regard to promotion of civil

  
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servants/employees under Sindh Civil Servants Act, 1973 and Rules made thereunder while PEC Act does not overreach or put an embargo upon the government in the matter of prescribing of qualification and other conditions of service of civil servants/employees for their promotion to higher grade. Yet again, we note that although the vires of notification dated 19.03.2014 has been challenged but we observe that this very notification has been issued under sub-rule (2) of Rule 3 of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, which rules have been made under section 26 of Sindh Civil Servants Act, 1973. Neither rule 3(2) of said rules nor section 26 of the Act, 1973 have been challenged nor their vires called in question before us. Thus from this also it is quite apparent that the petitioner does not challenge the government power for prescribing qualification and conditions of service of civil servants/employees for their promotion to higher grade. In any case, we note that the provisions of PEC Act nor the rules and regulations made under it will operate as bar on government to prescribe for qualification and other conditions of service of civil servants/employees for promotion to higher grade.

21. The PEC Act as its preamble itself shows so also reading of the whole Act shows that it essentially deals with regulations of engineering profession in it, *inter alia*, it prescribes for qualification of professional engineers, maintenance of register of professional engineers and accrediting of engineering universities etc and not as a regulator of employment be that be of government service or in the private service. The reasons for it could be found that all sort of engineering work could not be and may not be a professional engineering work for performance of which professional engineers are required. For example, technician, mechanic, draftsman, foreman,

  
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22. We may further observe that section 27 of the PEC Act provides for penalty for a person who undertakes any professional engineering work if his name is not borne on the Register but it also makes the employer who employs for any professional engineering work any person whose name is not, for the time being, borne on the Register to perform professional engineering work, shall also be liable for penalty as prescribed in the PEC Act itself. Thus both civil servant/employee and their employer would be liable to penalty as provided under section 27 if they undertake or allow a person to undertake professional engineering work whose name is not borne on register under PEC Act.


23. The net result of above discussion is that this petition fails. It is dismissed and leave refused, however with note of caution that government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as a registered engineer or professional engineer under the PEC Act.

JUDGE

JUDGE

JUDGE

Bench-IV  
Islamabad  
 \*Hashmi\*  
 APPROVED FOR REPORTING



Section Officer (Litigation)  
 Irrigation Department Peshawar

Announced in open Court on 03.10.2018

JUDGE

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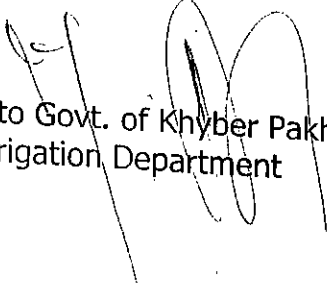
supervisor and overseer etc at best could be a skilled workman who may work independently or under the supervision of professional engineer and for such technician, mechanic, draftsman, foreman, supervisor and overseer the employer may not require holding of professional engineering degree. However, if the person is required to perform any of professional engineering work as defined under the PEC Act, the provisions of this Act will come into operation for ensuring as the work of professional engineer can and only be performed by professional engineer as recognized by PEC Act. The professional engineering work has been clearly defined under section 2(xxv) of the PEC Act which has already been reproduced above and lays down in sufficient details the works which are noted to be as professional engineering works and such works as mandatorily required by the PEC Act to be performed by a professional engineer possessing accredited engineering qualification from accredited engineering institutions in Pakistan and abroad with experience and passing of test of the Council and no other person is allowed to perform professional engineering works be that be a diploma holder or B.Tech. degree holder. This aspect of the matter has been substantially addressed by the PEC Act itself when making provision of section 27(5A) that "no person shall unless registered as a registered engineer or professional engineer, hold any post in an engineering organization where he has to perform professional engineering work." Thus professional engineering work can only be performed by a person who is registered as registered engineer or professional engineer and both registered engineer and professional engineer in terms of the PEC Act are by law required to possess accredited engineering qualification as prescribed by the PEC Act from accredited engineering institution.

Section Officer (Litigation)  
Industrial Development Department

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**AUTHORITY LETTER**

I, Secretary to Govt. of Khyber Pakhtunkhwa Irrigation Department do hereby authorize Mr. Noor Sher Mohmand, Section Officer (BS-17) Litigation Section, Irrigation Department to file comments and make statement before the Khyber Pakhtunkhwa Service Tribunal, Peshawar in connection with Service Appeal No.207/2022 filed by Engr. Sohail Khan & others Vs Government of Khyber Pakhtunkhwa through Chief Secretary & others.

  
Secretary to Govt. of Khyber Pakhtunkhwa,  
Irrigation Department

POWER OF ATTORNEY

In the Court of 1st MC Sana Fozhal Regis

Eng. Sohail Khan } For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

VERSUS

Govt of 1st MC ad other } Defendant  
} Respondent  
} Accused  
}

Appeal/Revision/Suit/Application/Petition/Case No: \_\_\_\_\_ of \_\_\_\_\_  
Fixed for \_\_\_\_\_

I/W. the undersigned, do hereby nominate and appoint

**ZARTAJ ANWAR & IMRAN KHAN ADVOCATES**, my true and lawful attorney, for me in my same and on my behalf to appear at Regis to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits, Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so. any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

**AND** to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

**AND** I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

**PROVIDED** always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

**IN WITNESS** whereof I/we have hereto signed at \_\_\_\_\_  
the \_\_\_\_\_ day to \_\_\_\_\_ the year \_\_\_\_\_  
Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

Imran Khan  
**IMRAN KHAN**  
Advocate High Court  
Mob: 0345-9690648

Zartaj Anwar  
**ZARTAJ ANWAR**  
Advocate High Courts  
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FR-3, Fourth Floor, Biltar Plaza, Saddar Road, Peshawar Cantt.  
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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

C.M No. \_\_\_\_/2022

in

Appeal No 207/2022.

Eng Sohail Khan.

(Appellant)

**V E R S U S**

Government of KPK and Others.

(Respondents)

**I N D E X**

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3	<del>XXXXXXXXXXXXXXXXXXXX</del>		
4	Vakalatnama		

Applicant  
Through

**ZARTAJ ANWAR**

Advocate Supreme Court  
Of Pakistan

Office FR , 3-4 Forth  
Floor Bilour Plaza

Peshawar Cantt.

Cell: 0331-9399185

Email: [Zartaj9@yahoo.com](mailto:Zartaj9@yahoo.com)

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

C.M No. \_\_\_\_\_/2022  
in  
Appeal No 207/2022.

Eng Sohail Khan.

(Appellant)

**V E R S U S**

Government of KPK and Others.

(Respondents)

**APPLICATION FOR IMPLEADMENT OF**  
**SAIF ULLAH S/O ABDULLAH KHAN**  
**(DEPUTY DIRECTOR (OPS) P&C SMALL**  
**DAMS PESHAWAR IN THE PANEL OF**  
**RESPONDENTS IN THE ABOVE NOTED**  
**SERVICE APPEAL,**

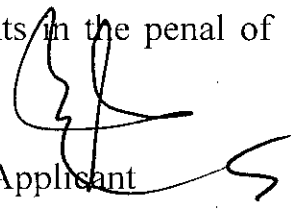
**Respectfully Submitted:-**

1. That the above noted service appeal is pending in this Honorable Tribunal, in which next date of hearing is 23.05.2022
2. That the applicant is performing their duties as Assistant Engineer BPS-17 in the respondent department and performing his duties with great zeal and devotion to the entire satisfaction of his superiors without any complaint whatsoever regarding his performance.
3. That there was no promotion quota for the B.Tech degree holders and (DAE) diploma holders in the department who were performing their duties in a capacity of Assistant Engineers BPS-17 to Executive Engineers BPS-18 as they have no future prospects of promotion from BPS-17 to BPS-18.

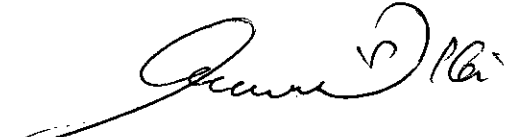
4. That the Assistant Engineers BPs-17 submitted representation /application for reservation of promotion quota for B.Tech Degree holders and (DAE) Diploma Holders in the light of judgment dated 03.10.2018 of the Honourable Supreme Court of Pakistan in case titled Maula Bux vs Govt of Sindh and also on the analogy of different department of Sindh and Punjab Government.
5. That Standing Service Rules Committee recommended the promotion to the higher grade by awarding 20% quota for promotion from BPS-17 to BPs-18 by giving future prospects of Promotion as 12% were reserved for B.Tech Degree holders and 8% reserved for Diploma Holders.
6. That in the light of the above recommendation and approval of the competent authority in accordance with law, rules and procedure the amendment was made and notified by the secretary irrigation in consultation with the establishment and finance department vide notification dated 24.08.2021.
7. That in light of the minutes of the SSRC and approval of the same by the competent authority, further to add duly notified by the competent authority and published in the official gazette, the department in the light of such amendments prepared separate seniority list of Degree holders, B.Tech (Hons) Degree and Diploma Holders, the present applicant is B.Tech (Hons) Degree holders to whom a separate initially tentative seniority list was issued which after lapsing of statutory period followed by Final seniority list.
8. That the applicant being proper and necessary party in the panel of the respondents for just and legal disposal of the writ petition being valuable rights attached.
9. That there is no legal impediment in the impleadment of the impleaded respondent, rather the interest of justice would be served in case the impleaded respondent is impleaded.
10. That the impleadment of the impleaded respondent is necessary as without his impleadment no effective order could be passed.

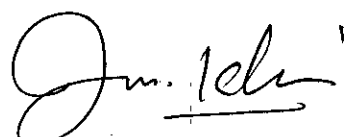
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It is therefore, prayed that on acceptance of this application the impleaded respondent may please be impleaded as respondents in the penal of respondents.

  
Applicant

Through:

  
**ZARTAJ ANWAR**  
Advocate Peshawar

&   
**IMRAN KHAN**  
Advocate Peshawar



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

C.M No. \_\_\_\_\_/2022  
in  
Appeal No 207/2022.

Eng Sohail Khan.

(Appellant)

**V E R S U S**

Government of KPK and Others.

(Respondents)

**AFFIDAVIT**

I, **Saif Ullah** S/o Abdullah R/O House no E 8,  
Civil Colony Warsak Road Kababyan Peshawar, do  
hereby solemnly affirm and declare on oath that the  
contents of the above appeal are true and correct and  
that nothing has been kept back or concealed from  
this Honourable Tribunal.



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Reply  
in  
Appeal No 7917/2021.

Engg Imtiaz Khan.

(Appellant)

**VERSUS**

Government of KPK and Others.

(Respondents)

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**Impleaded Respondents**

Through



**ZARTAJ ANWAR**  
Advocate High Court  
Office FR , 3-4 Forth Floor  
Bilour Plaza Peshawar Cantt.  
Cell: 0331-9399185  
Email: [Zartaj9@yahoo.com](mailto:Zartaj9@yahoo.com)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR

Reply  
in  
Appeal No 7917/2021.

Engg Imtiaz Khan.

(Appellant)

**VERSUS**

Government of KPK and Others.

(Respondents)

REPLY ON BEHALF OF THE IMPLEADED  
RESPONDENTS

Respectfully Submitted:-

1. That the above noted service appeal is pending in this Honorable Tribunal, which is fixed for today.
2. That the applicants are performing their duties as Assistant Engineer BPS-17 in the respondent department and performing their duties with great zeal and devotion to the entire satisfaction of their superiors without any complaint whatsoever regarding their performance.
3. That the issued in hand in the present appeal while providing future promotion prospects to the answering respondents by allotting/reserving promotion quota to BPS-18 posts for diploma and B.Tech Degree holders by ration of 8% and 12% respectively, the promotion of the respected diploma and B.Tech Degree holder was initially agitated when they were given the promotion prospects in BPS-17 which was challenged before the honourable Khyber Pakhtunkhwa service tribunal in which the honourable Tribunal direct the provincial government to considered the amendment made to the rules , the same was made while not accommodating specific individual, the honourable supreme court in the reported judgment title Govt of KPK vs. Muhammad Javeed declares:

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Since it's a policy matter the government was empowered to reduce the said quota of Diploma holders sub engineers for promotion to the post of Assistant Engineer and also to create a separate quota of B.Tech Degree Holders for promotion to the post of Assistant Engineer

4. That the Hon;able Supreme Court in its reported Judgment PLD 1995 SC Page 701 held:

*Promotion of a civil servant from any particular grade to higher grade authority competent to order such promotion government has the exclusive domain to decide whether any particular qualification would be considered sufficient for promotion from any particular grade to higher grade and government is vested with exclusive domain to change such policy from time to time fro nobody could claim any vested right in that policy Pakistan engineering counsel, however, has exclusive domain to decide as to whether any particular qualification could be equated with another academic qualification but would have no power to say that civil servant/employee holding particular academic qualification could not be promoted from particular grade to higher grade*

*(Copy of the judgment is attached as annexure A)*

5. That the Sindh Service Tribunal came up with the same issue while giving the promotion quota to the diploma and B.tech Degree holders for promotion to the post of Assistant Engineer BPS-17 and further allocation of promotion quota of 20 % for diploma and B.Tech Degree Holders to the post of Executive Engineer BPS-18, the BSc Engineers like present appellant challenged the same in the Service Appeal that the post of executive Engineer BPS-18 being that of a purely professional engineering work could only be perform by professional engineers holding accredited engineering qualification as provided in the PEC Act the Plea of the appellant petitioner was dismissed by the Honourable Supreme Court in *Maula Bux Sheikh and others Vs Chief Minister Sindh and others*.
6. That there was no promotion quota for the B.Tech degree holders and (DAE) diploma holders in the department who were performing their duties in a capacity of Assistant Engineers BPS-17 to Executive Engineers BPS-18 as they have no future prospects of promotion from BPS-17 to BPS-18.
7. That the Assistant Engineers BPs-17 submitted representation /application for reservation of promotion quota for B.Tech Degree holders and (DAE) Diploma Holders in the light of judgment dated

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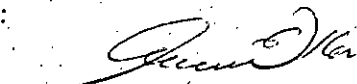
03.10.2018 of the Honourable Supreme Court of Pakistan in case titled *Maula Bux vs Govt of Sindh* and also on the analogy of different department of Sindh and Punjab Government.

8. That Standing Service Rules Committee recommended the promotion to the higher grade by awarding 20% quota for promotion from BPS-17 to BPs-18 by giving future prospects of Promotion as 12% were reserved for B.Tech Degree holders and 8% reserved for Diploma Holders.
9. That in the light of the above recommendation and approval of the competent authority in accordance with law, rules and procedure the amendment was made and notified by the secretary irrigation in consultation with the establishment and finance department vide notification dated 24.08.2021.
10. That in light of the minutes of the SSRC and approval of the same by the competent authority, further to add duly notified by the competent authority and published in the official gazette, the department in the light of such amendments prepared separate seniority list of Degree holders, B.Tech (Hons) Degree and Diploma Holders, the present applicants are B.Tech (Hons) Degree holders to whom a separate initially tentative seniority list was issued which after lapsing of statutory period followed by Final seniority list. *(Copies of Minutes of SSRC held in different departments are attached as annexure B).*

It is therefore, prayed that on acceptance of this Reply the service appeal of the appellant may kindly be dismissed with heavy cost.

Impleaded Respondent

Through:



**ZARTAJ ANWAR**

Advocate Supreme Court  
Of Pakistan

4

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

Reply  
in  
Appeal No 7917/2021.

Engg Imtiaz Khan.

(Appellant)

**VERSUS**

Government of KPK and Others.

(Respondents)

**AFFIDAVIT**

I, Saif Ullah S/o Abdullah R/O House no E 8, Civil Colony Warsak Road Kababyan Peshawar, do hereby solemnly affirm and declare on oath that the contents of the above appeal are true and correct and that nothing has been kept back or concealed from this Honourable Tribunal.

Deponent

P L D 1995 Supreme Court 701

Present: Sajjad Ali Shah, CJ., Ajmal Mian, Manzoor Hussain Sial, Muhammad Munir Khan and Mir Hazar Khan Khoso, JJ

FIDA HUSSAIN--- Petitioner

versus

**THE SECRETARY, KASHMIR AFFAIRS AND NORTHERN AFFAIRS DIVISION, ISLAMABAD and another- Respondents**

Suo Motu Review Petition No .52 of 1993, decided on 5th June, 1995.

(On review froze the judgment dated 5-12-1992 of the Supreme Court of Pakistan passed in Civil Appeal No. 216 of 1991;

(a) Pakistan Engineering Council Act (V of 1975)---

---S. 8- -Constitutions of Pakistan (1973); Arts. 25 & 212- --Promotion of civil servant from any particular grade to higher grade Authority competent to order such promotion- --Government has the exclusive domain to decide whether any particular qualification would be considered sufficient for; promotion from any particular grade to higher grade and Government is; vested with exclusive domain to change such policy from time to time, for no body could claim any vested right in that policy- --Pakistan Engineering Council; however, has exclusive domain to decide, as to whether any particular qualification could be equated with another academic qualification but would have no power to say that civil servant/employee holding particular academic. qualification could not be promoted from a particular grade to higher grade- -Government cannot abdicate its power to decide such question in favour of a corporate body which is not in its control nor it can act in a manner which might be violative of Art. 25 of the Constitution on account of being discriminatory.

Muhammad Siddique Nasim v. Secretary, Government of the Punjab, Irrigation and Power Department, Lahore 1987 SCMR 302; Muhammad Azim Jamali and 11 others v. Government of Pakistan through Secretary/Chairman, Ministry of Railways and 33 others 1992 PLC (C.S.) 637 and Pakistan Diploma Engineers Federation (Registered) through its Chairman v. Federation of Pakistan through Secretary, Ministry of Water and Power, Government of Pakistan, Islamabad and 9 others 1994 SCMR 1807 ref.

(b) Pakistan Engineering Council Act (V of 1975)---

---Ss. 2 & 8- --Pakistan Engineering Council- --Functions--Pakistan Engineering Council is vested with functions to regulate persons qualified to practise as professional engineers and consulting engineers and not persons who were employed in the Government or semi-Government organizations- -Where Government had employed any professional engineer, for performing professional engineering work as envisaged in cl. (k) of S.2 of the Act, provisions of the Act would be attracted and not otherwise.

(c) Civil service--

---Pakistan Engineering Council Act (V of 1975), Ss. 2 & 8-- Constitution of Pakistan (1973), Arts. 25, 212 & 188- Supreme Court Rules, 1980, O.XXVI, R.1- --Review of judgment of Supreme Court-- Civil servant- Right to promotion on basis of improvement of qualifications- Government had initiated two degree courses for diploma-holders in Engineering i.e. B. Tech (Pass) and B. Tech (Honours), petitioner passed both such examinations and claimed promotion on basis of his improved qualifications Petitioner was not promoted on the ground that Pakistan Engineering Council did not recognize B. Tech. (Honours)

Associations of the Polytechnic Diploma Holders. *it* was decided that steps should be taken to introduce the degree programs for the polytechnic diploma holders without further delay.

2. As envisaged in the new Education Policy, the following programme was adopted. There will be two degree courses for diploma holders (i) B. Tech. (Pass) and (ii) B. Tech. (Honours).
3. Admission to the B. Tech. (Pass) course shall be subject to the candidates fulfilling the following minimum requirements:
  - (i) Three years diploma from a Polytechnic institute in first Division.
  - (ii) Two years, industrial training/experience. Candidates without industrial experience shall be required to undergo one year's supervised/guided practical training in industry to be arranged by the institution concerned.
  - (iii) Performance in the admission test.
4. B. Tech. (Pass) course will consist of a year's programme of studies at the institution. The degree of B. Tech. (Pass) shall be treated at par with a Bachelor's degree in Science.
5. Candidates having successfully completed B. Tech. (Pass) degree course- shall be eligible for admission to a two years B. Tech. (Honours) course. The first year of this course will comprise supervised/guided industrial training during which the students shall be assigned specific projects relevant to their fields of study. The second year will consist of intensive study at the institution. B. Tech..

(Honours) shall be treated at par with B. Sc. (Engineering)/B.E. Degree.

It was also decided that so long as necessary facilities do not exist in Balochistan and N.-W.F.P. and other backward areas, Federal Government will arrange placement of students from these areas in other Provinces.

You are requested to kindly direct the relevant authorities of your Province to implement these decisions urgently, With regards,

Yours sincerely,

(Abdul Hafeez Pirzada):"

(Sd.)

3. Pursuant to the above policy, the aforesaid proposed courses of B.Tech. (Pass) and B. Tech. (Honours) were initiated. It is the case of the petitioner that he passed B. Tech. (Pass) course in 1977 and B. Tech.(Honours) course in March, 1981, from N.E.D. University, Karachi. After improving this academic qualifications the petitioner resumed his duties in March, 1981, in the Northern Areas P.W.D. It is an admitted position that a number of employees who cleared B. Tech. (Pass) and B. Tech. (Honours) were promoted to BPS-17 by the authorities concerned. The petitioner was not promoted, the Administrator, Northern Areas, Gilgit, was informed by the Chief Engineer, Northern Areas P.W.D., that the petitioner could not be promoted as the Pakistan Engineering Council did not recognise B. Tech. (Honours) as equivalent to B.Sc. (Engineering) degree. Thereupon, the petitioner filed a department appeal on 2G-1-1989, which was rejected on 11-2-1990. Then he approached the Federal Service Tribunal through Appeal No.83(R) of 19(10) but the same was dismissed for the following reasons:--

"10. We have considered the arguments advanced by both sides as well as the objections submitted by Pakistan Engineering Council. In our view the letter of Minister hat Education and Provincial



Coordination dated 26-10-1973 was a letter laying down a policy, effect to which was to be given by issue of notifications by the Federal Government and the Provincial Governments. It appears that only the Government of Punjab issued a notification dated 1-2-1981 but withdrew it on 5-3-1985. Any notification to give effect to this policy decision was not issued by the Federal Government. The Pakistan Engineering Council which is the appropriate body to give opinion clearly stated in their letter dated 24-2-1982 to the Ministry of Education that B. Tech. (Hons.) was not equivalent to B.Sc. (Engineering) Degree. We are, therefore, of the view that the appellants appeal have no merit and are dismissed."

After that, the petitioner filed a petition for leave to appeal in this Court, which was granted to consider the various contentions raised by the learned counsel for the petitioner. The appeal was heard on 5-12-1992 and it was dismissed on the ground that the impugned judgment of the Tribunal was based on the judgment of this Court in the case of Muhammad Siddique Nasim v. secretary government of the Punjab, Irrigation and Power Department, Lahore (1987 SCMR 302). Then the petitioner filed a review petition, which was registered as a Suo Motu Review Petition.

4. We have heard the petitioner in person and Raja Muhammad Bashir, learned Deputy Attorney-General for the respondents. We have also perused the record. It appears to be an admitted position that pursuant to the above decision contained in the aforesaid letter dated 26-10-1973 of the Minister for Education and Provincial Coordination, two degree courses for diploma holders, namely, B. Tech. (Pass) and B. Tech. (Honours) had commenced. The employees who improved their academic qualification by passing the aforesaid examinations were given promotion by the Federal Government Departments as well as by the Government of Punjab. Upon failure of the Government of Punjab, the Punjab Service Tribunal had allowed a number of appeals filed by the aggrieved employees, copies of some of such decisions have been filed by the petitioner in the present proceedings. It seems to be also an admitted position that even in the petitioner department, certain employees who had passed B. Tech. (Honours) examination were given promotions to BPS-17. However, upon the receipt of communication from the Pakistan Engineering Council to the effect that 13. Tech. (Honours) cannot be equated with B. Sc. (Engineering), the Punjab government as well as the federal Government stopped considering for promotion to BPS-17 the incumbents who had Passed B. Tech. (Honours). At this juncture, it may be pertinent to refer to the letter of the Registrar of the Pakistan Engineering Council dated 30-4-1983, addressed to one Mr. Sajid Ali, General Secretary, Sui Northern Gas Sub- Engg. Association, in which the following statement of facts was made.

"The Council has approved B. Tech. (Hons) as equivalent to B. Sc. Engineering which a Diploma Holder can pass after 4 years of passing the final examination in diploma. The Council has also equated AMIL Examination equivalent to B. Sc. Engineering. These facilities have been provided to those who want to improve their qualification become equivalent to B. Sc. Engineering. You are advised to improve your qualifications if you are registered as a Professional Engineer with the Council."

4-A. We invited the attention of the learned Deputy Attorney-General to the above portion of the aforesaid letter. He, after obtaining instructions from Mr. Bashir Ahmed Sheikh, Registrar of the Pakistan Engineering Council, stated that the words "The Council has approved B. Tech. (Hons.) as equivalent to B. Sc. Engineering" should be read as "The Government has approved B. Tech. (Hons.) as equivalent to B. Sc. Engineering". According to him, this was typographical error and the word "Council" has been used in place of the word "Government". We asked the Registrar of the Pakistan Engineering Council to produce any document to indicate that the above alleged typographical error was corrected. For that purpose, we adjourned the case till after tea break. The learned Deputy Attorney-General produced letter No. PEC/QEC/4-P dated 24-4-1984 of the Registrar, Pakistan Engineering Council addressed to the Director-General (Investigation-IV), Wafaq Mohtasib (Ombudsman)'s Secretariat, Islamabad, wherein the following averment has been made:--

"We are extremely sorry to say that a small typographical error in writing the word 'Council' in place of 'Government' in the 5th para. of our letter dated 30-4-1981 has caused misunderstanding.

It is confirmed that the course of B. Tech. (Hons.) has never been approved by the Pakistan Engineering Council. It was originally approved by the Government in 1973."

5. However, we are not impressed by the above explanation. A perusal of the above-quoted para. of the Pakistan Engineering Council's letter dated 30-4-1981 indicates that the words "The Council" which are used as the first two words of the aforesaid para. could not have been written on account of typographical error as in the fifth line of the above para. it has been stated that "The Council has also equated AMIL Examination equivalent to B.Sc. Engineering". The use of the word "also" in the above referred subsequent portion of the above-quoted para. leads to the conclusion that the words "The Council" in the beginning of above para. could not have been used on account of typographical error. It is, therefore, evident that initially the Pakistan Engineering Council had approved to treat B. Tech. (Honours) equivalent to B.Sc. Engineering. However, subsequently it changed its stand. It appears that the University of Engineering and Technology, Lahore, through its Registrar's letter dated 15-10-1980 addressed to the Secretary Education, Government of Punjab, Lahore, intimated to the latter that the Equivalence Committee on the basis of the opinion contained in the working paper and after discussing the entire issue with the complete background, recommended that B. Tech. (Honours) degree in particular specialization may be equated with that of corresponding B. Sc. Engineering degree with the above University for the job purposes as Field Engineers

6. We are, therefore, inclined to hold that factually the policy decision contained in the above-quoted letter of Minister of Education and Provincial Coordination dated 26-10-1973 was implemented. Even if we were to hold that the Pakistan Engineering Council had not approved the above equivalisation of the above academic degrees, it would not make any difference as the basic question in the present case which escaped notice of the learned Judges of the Bench of this Court which rendered the judgment involved is, as to whether the Pakistan Engineering Council is competent to decide the question, whether a particular academic degree should be accepted as sufficient academic qualification for promotion of civil servants and employees of the semi Government organizations from a particular lower grade to a particular higher grade or is it within the domain of the Government or the semi-Government organization concerned. At this juncture, it may be pertinent to refer to a judgment of the High Court of Sindh in the case of Muhammad Azim Jamali and 11 others v. Government of Pakistan through Secretary/Chairman, Ministry of Railways and 33 others (1992 PLC (C.S.) 637), in which the facts were that the petitioners, who were 12 in number, were holding post of Assistant Executive Engineers (Grade-17) in Pakistan Railways, hereinafter referred to as the Railways. Respondents Nos.4 to 10 were holding posts as Executive/Divisional Engineers (Grade-18), whereas respondents Nos.11 to 34 were holding posts of Assistant Executive Engineers (Grade-17) in the Railways and were claiming promotion to the posts of Executive/Divisional Engineers (Grade-18). The petitioners filed a Constitution petition, in which they averred that respondents Nos.4 to 34, who had diplomas from various institutions, were not professional Engineers in terms of clause (j) of section 2 of the Pakistan Engineering Council Act, 1975, hereinafter referred to as the Act, and, therefore, were not entitled to undertake any professional engineering work as defined in clause (k) of section 2 of the Act. It was further averred that in spite of the efforts on the part of the petitioners, the Government of Pakistan, the Chairman Railways Board and the General Manager, Pakistan Railways, Lahore (who were arrayed as respondents Nos.1, 2 and 3 respectively) and despite of the directive of respondent No.1, respondents Nos.4 to 34 continued to hold the office of professional engineers in violation of the provisions of the Act. On the basis of above averments, a number of declarations and directives were sought. The matter was heard by a Division Bench of the Sindh High Court. One of us, Ajmal Mian, J. (who was a member of the above Bench) after referring all the relevant provisions of the Act, came to the following conclusion:--

"30. Having referred to the various provisions of the Act, the question, which requires consideration is, as to whether the provisions of the Act are applicable only to professional Engineers and professional consultants, who are in practice or do they also apply to the persons working in the Government Departments, autonomous bodies, local authorities and private firms and companies or employed by the private persons as paid employees etc. I am inclined to hold that the provisions of the Act are applicable only to the professional Engineers and consulting Engineers, who are in practice. My reasons for holding so inter, alia are as follows:

- (i) That though preamble to an Act does not control the provisions of the Act, but reference can be made to it to ascertain the legislative intendment in case of any doubt/ambiguity. In the instant case the object of the Act given in the preamble is 'to make provision for regulation of engineering profession'.
- (ii) That the definition of 'professional Engineer': as given in clause (g) of section 2 of the Act provides two preconditions, namely, (a) the person should hold a recognized engineering qualification, and (b) he should be registered as a professional engineer with the Council. The word engineer is prefixed by the word professional, which has a definite connotation and is used when a person is in practice of a particular profession.
- (iii) The term "professional engineering work" as defined in clause (k) of section 2 of the Act refers to the services/works which are normally rendered by a professional engineer, who is in practice, namely, giving of professional advice and opinions. The other services/works mentioned after the above two services/works are to be read in conjunction with them, otherwise it would lead to absurdity. I may give an illustration. Suppose A for his private residential building employs B a diploma holder in engineering to take weekly measurements of the work executed. The work, measurements and the residential building both have been mentioned in the above clause (k). If we were to read the words professional advice and opinion disjunctively with the word 'measurement', it must follow that A and B have rendered themselves liable to be prosecuted under subsections (1) and (2) of section 27 of the Act referred to hereinabove, which could not have been the intention of the law-maker.
- (iv) That section 8 of the Act, which defines the functions of the Council inter alia provides for the maintenance of a Register in terms of section 16 of the Act 'of persons qualified to practise as professional engineers and professional consultants and not persons in service'.
- (v) That section 12 of the Act empowers the Executive Committee to grant to any person domiciled outside Pakistan, who does not hold any recognized engineering qualification but, who holds a diploma in engineering, or a degree in applied sciences or an equivalent diploma from the institution recognized by the Council etc. a temporary licence for a specific project to work as an associate of a professional engineer, but the latter will have to sign and seal the plans and specifications for the project.
- (vi) That section 16 provides for the maintenance of a register and for enrolment of professional engineers and professional consultants, whereas section 17 of the Act provides for removal of the name of a professional engineer or professional consultant and re-enrolment. It may be observed that subsection (2) of section 17 of the Act empowers the Enrolment Committee in its discretion to refuse to permit the registration of any person or to direct the removal altogether or for a specified period from the Register the name of any registered professional engineer or consulting engineer, who or which has been convicted for any such offence as implies in the opinion of the Committee a defect of character or who or which after an enquiry and of hearing has been held by the Committee as guilty of infamous conduct in any professional respect or who or which has shown himself or itself to be unfit to continue in practice on any ground including in the case of a professional engineer mental ill-health.
- (vii) That section 20 of the Act provides for lodging of a complaint against any professional engineer or consulting engineer, whereas section 21 contemplates constitution of Tribunals of Inquiry for inquiring into such complaints. Furthermore, subsection (6) of section 22 provides that in any case in which it (i.e. the Tribunal) has recommended the imposition of any penalty on or the prosecution of, the respondent; the Tribunal may also recommend that an amount not exceeding twice the amount of the fee recovered by the respondent from the complainant may be recovered from the respondent and be paid to the complainant as compensation.
- (viii) That subsection (5) of section 27 of the Act provides that no person undertaking any professional engineering work shall, unless he is registered under the Act, be entitled to recover before any Court

or authority any sum of money for services rendered in such work:

However, a contrary view was taken by Qaiser Ahmad Hamidi, J as under:-

"6. According to Pakistan Engineering Council Act, 1975, only registered professional and consulting engineers are authorised to undertake professional engineering works. The copy of letter sent by Chairman, Pakistan Engineering Council to Government of Punjab dated 2-6-1977, further makes it clear that the Federal Government had announced 30th June, 1977, to be the last date by which all Professional and Consulting engineers shall get themselves registered with the Pakistan Engineering Council. It appears that due to pressure of diploma holders who are not registered professional engineers, there has been a flagrant violation of the provisions of the Act. Even in relating to the posts of Assistant Executive Engineers (B.P.S. 17) regarding which a decision was taken by the Government that diploma holders could be appointed against such posts, the same lacks the warrant of law and is in the nature of concession granted to unqualified persons. The appointment of the diploma holders against senior posts of Pakistan Railways in disregard of the provisions of the Act, is, therefore, illegal on the face of it. It may be noted that the responsibilities of the engineers in Pakistan Railways are more onerous. They relate to proper functioning of the railways and the construction, design, supervision and maintenance of engineering works which affect the safety of public at large."

The matter was referred to a third learned Judge and was heard by Saiduzzaman Siddiqui, C. J., (as he then was), who concluded as under:-

"7. From the above debates in the National Assembly, it would appear that the object of introducing the Engineering Council Bill of 1975 was to bring the engineering profession on the same line and make it subject to similar check and control as are applicable to the Medical and legal profession, by creating an Engineering Council in line with the Medical Council and the Bar Council. Ajmal Mian, C.J. (as he then was) in his Judgment compared the provisions of the Act with the provisions of Legal Practitioners Act and observed that the provisions of the Legal Practitioners Act are applicable only to the practising advocates and are not extended to persons having legal qualification who are employed in Statutory Corporations, and other Departments though they may be tendering legal advises in course of their such employment. The observations of Ajmal Mian, C.J., appear to be in accord with the objects of the Act. I am, therefore, of the view that merely because a person possesses an engineering qualification and is employed on a job which requires engineering skill does not mean that he must be registered under the Act."

7. The above matter came up before this Court through appeals with the caveat of this Court, which were inter alia filed by the Pakistan Engineering Council. The same were dismissed and the above majority view of the High court of Sindh was maintained.

8. However, - Raja -Muhammad Bashir, learned Deputy Attorney general, has submitted that the following portion of the judgment of this Court in the case of Pakistan Diploma Engineers Federation (Registered) through its Chairman v. Federation of Pakistan through Secretary, Ministry of Water and Power, Government of Pakistan, Islamabad and 9 others. (1994 SCMR 1807) upports the plea of the respondents:-

"18. We on the other hand after hearing Mr. Abid Hassan Minto learned Advocate for the appellant at considerable length consider that this is not a correct interpretation of the judgment of the High Court. The High Court has clearly stated that the provisions of the Act were wide enough to include cases of those persons engaged in professional engineering works whether employed in any private or Governmental Organisation, if they are called upon to undertake any professional engineering work, as defined under the Act. In fact in the connected case CA. No.31 of 1992 a Committee of Secretaries constituted by the Punjab Government correctly summed up the true position obtaining in the Act as follows:-

"The Committee was of the view that the Government could appoint a non-graduate engineer to a post in any grade but if the post involved performance of professional engineering work such appointment would

attract penalties prescribed in the Act.

The finding of the Referee Judge in this case is to the same effect and in our opinion this finding is quite correct."

9. In this regard, we may point out that it is the domain of the Government concerned to decide whether a particular academic qualification of a civil servant employee is sufficient for promotion from one Grade to another higher Grade and whereas it is in the domain of the Pakistan A, Engineering Council to decide, as to whether a particular academic qualification can be equated with another academic qualification, but it has no power to say that the civil-servants/employees holding particular academic qualifications cannot be promoted from a particular Tirade to a higher Grade. The main object of the Act as pointed out by one of us (Ajmal Mian, J.) and Saiduzzaman Siddiqui, CJ. (as he then was) in the above High Court judgment is to regulate the working of professional engineers and consulting engineers and not to regulate the qualifications or the working of the engineers in the Government or semi-Government departments. The definitions of the terms "professional engineer" and "professional engineering work" given in clauses (j) and (k) of section 2 of the Act are to be read together and, therefore, as a corollary to the same, it must follow that the term "professional engineering work" as defined in clause (k) of section 2 of the Act is to be performed by a professional engineer as defined in clause (j) thereof, which is evident from section 8 of the Act, which defines the functions of the Pakistan Engineering Council as under:--

"8. Functions of the Council ---The following shall tie the functions of the Council, namely:--

- (a) maintenance of a Register of persons qualified to practise as professional engineers and consulting engineers;
- (b) recognition of engineering qualifications for the purpose of registration of professional engineers and consulting engineers;
- (c) removal of names from the Register and restoration to the Register names which have been removed;
- (d) laying down of standards of conduct for the members;
- (e) safeguarding the interests of the members;
- (f) promotion of reforms in the engineering profession;
- (g) management of the funds and properties of the Council;
- (h) promotion of engineering education and review of courses of study in consultation with the Universities;
- (i) levy and collection of fees from applicants for registration temporary licences and members;
- (j) exercise of such disciplinary powers over the members and servants the Council as may be prescribed;
- (k) formation of such committees as maybe prescribed; and
- (l) performance of all other functions connected with, or ancillary incidental to, the aforesaid functions."

A perusal of the above-quoted section shows that the Pakistan Engineering Council is vested with the functions to regulate the person qualified to practise as professional engineers and consulting engineers and n persons who are employed in the Government or semi-Government organisations. If the

Government employs a professional engineer as defined the Act for performing professional engineering work as envisaged by the A in above clause (k) of section 2; the provisions of the Act would be attracts and not otherwise.'

10. Reverting to the merits of the present case, as pointed o hereinabove, that the petitioner pursuant to the above decision of the Government of Pakistan dated 26-11-1973 passed[ his B. Tech. (Pass) in 19 and h. Tech (Honours; in March, 1981, from the N.E.D. University, Karacl And, thci before, acted upon the above representation of the Government. In the view of the matter, it is not just and fair not to consider the petitioner f promotion to BPS-17 keeping in view the admitted fact that a number of other civil servants/employees in the same department in the same position ha been promoted by the departments/organisations concerned. In this behalf, may be pertinent to refer to the 'case of Mukhtar Ahmad and 37 others Government of West Pakistan through the Secretary, Food and Agriculture Civil Secretariat, Lahore and another (PLD 1971 SC 846). The facts of the above case were that the persons possessing the qualifications mentioned Rule 7 of the West Pakistan Agricultural Engineering Service (Class II) Rule 1963, were not available. The Government launched a scheme for training of Assistant Agricultural Engineers, where under 46 Graduates in B.Sc. Agriculture were to be selected for appointment as Assistant Agricultural Engineers after their successful completion of two years' diploma courses at an Agricultural University. The above scheme was discussed by the Government with the Public Service Commission. The candidates selected by the Public Service Commission, who were about to complete their training of two years, were informed by the Government that they would have to appear again before the Public Service Commission to be selected for appointment to the posts of Assistant Agricultural Engineers (Class II). The candidates asserted that after the completion of their training they were entitled to be appointed as Assistant Agricultural Engineers (Class II) in terms of the offer made to them and they could not be required to appear again before the Public Service Commission for such appointment. on the other hand, the Government contended that the 'candidates did not possess the qualification prescribed by Rule 7 of the West Pakistan Agricultural Engineering Service (Class II) Rules, 1963, for appointment to such posts. The matter came up for hearing before this Court in the form of an appeal with the leave of this Court filed by the candidates against the judgment of a Division Bench of the erstwhile High Court of West Pakistan. The same was allowed and inter alia the following was concluded:--

"The offer of the Government and its acceptance by the appellants constituted a valid agreement and the Governor's order dated the 1st July, 1965 provided the authority for such an agreement: This agreement is capable of being enforced in law. The Government was both competent and obliged to implement that agreement. When the Governor's order, dated the 1st July, 1965, provided a special authority for recruitment to the 46 posts of Assistant Agricultural Engineers, rule 7 of the Recruitment Rules was not applicable in this case."

11. The above case supports the petitioner's stand. Another aspect which escaped notice of this Court in tire judgment under review is that some of the other civil servants/employees placed in the same position as the petitioner was had been considered for promotion to BPS-17 and in fact were promoted, whereas the petitioner was denied the above benefit which amounted to violation of inter alia Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973. In this regard, reference may, be made to the case of I. Sharwani and others v. Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041).

12. The judgment of this Court in the case of Muhammad Siddique Nasim (supra) relied upon by the Tribunal is distinguishable for more than one reason, firstly, in the above case the **notification of the Government of Punjab dated 8-2-1961** equivalising B. Tech. (Honours) with B. Sc. Engineering degree was withdrawn on 15-3-1985, whereas the petitioner received degree of B. Tech. (Honours) in June, 1985, i.e. after the withdrawal of the notification; whereas in the present case, admittedly the petitioner passed his B. Tech. (Honours) in March, 1981, before the Pakistan Engineering Council through its Registrars above letter dated L4-4-1984 stated that there was typographical error in the above-quoted portion of its Registrar's letter dated 30-4-1981.. Secondly, in the judgment in the case of Pakistani Diploma Engineers federation (Registered) through its Chairman (supra), this Court affirmed the majority view of the High

Court of Sindh in the case of Muhammad Aam Jamatt (supra), in which it has been held that the provisions of the Act are applicable only to professional engineers and consulting engineers who are in practice and not to the persons working in the Government departments, autonomous bodies, local authorities and private firms or companies.

13. We may again observe that it is exclusively within the domain of the Government to decide whether a particular qualification will be considered sufficient for promotion from a particular Grade to a higher Grade and it is also within the domain of the Government to change the above policy from time to time as nobody can claim any vested right in the policy. However, it cannot abdicate its power to decide the above question in favour of a corporate body which is not in its control nor it can act in a manner which may be violative of Article 15 of the Constitution on account of being discriminatory. It is still open to the Government for future to provide that academic qualification of B. Tech. (Honours) will not be considered sufficient for promotion from BPS-16 to BPS-17 if the same does not violate the above principle.

14. The upshot of the above discussion is that the judgment under review is liable to be recalled as it proceeded on wrong premises. We would, therefore, allow the above Suo Motu Review Petition and recall the above judgment. In consequence thereof, petitioner's civil Appeal No.216 of 1991 is allowed and the judgment of the Tribunal is set aside and the respondents are directed to consider the petitioner's case for promotion to BPS-17,

AA/F-368/5

Review allowed.





GOVERNMENT OF KHYBER PAKHTUNKHWA  
IRRIGATION DEPARTMENT

15 Annuz B

Dated Peshawar the 20<sup>th</sup> November, 2014

NOTIFICATION

No. SO(E)/IRRI/4-3/DPC/PSB/2012/Vol-III: Pursuant to the orders of Supreme Court of Pakistan, Islamabad dated 11.11.2014 whereby the impugned judgment dated 26.02.2014 of Khyber Pakhtunkhwa Service Tribunal, Peshawar has been set aside and consequently dismissed all the service appeals filed by the respondents, the competent authority in consultation with Departmental Promotion Committee is pleased to promote the following B. Tech (Hons) Degree Holder Sub Engineers to the post of Assistant Engineers (BS-17) in Irrigation Department on regular basis with effect from 22.11.2012 i.e. the date on which recommendation of the DPC were approved by the competent authority:-

- i. Mr. Aman Ullah Khan.
- ii. Mr. Niáz Badshah.
- iii. Mr. Saifullah.

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

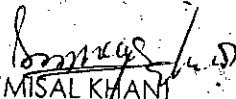
3. Consequent upon their promotion as Assistant Engineers (BS-17), the officers at Sr. No. i & iii are allowed to continue on their existing place of postings whereas the officer at Sr. No. ii after actualization against the vacant post of SDO, Flood Irrigation Sub Division-II, D.I. Khan will re-join his present post i.e. Assistant Director, Rehabilitation for Irrigation System Project, Peshawar.

Secretary to Govt. of Khyber Pakhtunkhwa  
Irrigation Department

Endst. No. & date even.

Copy forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Engineer (South) Irrigation Department, Peshawar.
3. The Chief Engineer (North) Irrigation Department, Peshawar.
4. All Superintending Engineers of Irrigation Department.
5. The Project Director, Rehabilitation for Irrigation System Project, Peshawar.
6. The District Accounts Officers, Charsadda & D.I. Khan.
7. PS to Minister for Irrigation, Khyber Pakhtunkhwa.
8. PS to Secretary Irrigation Department, Khyber Pakhtunkhwa.
9. Officer concerned.
10. The Manager, Govt. Printing & Stationary Department, for publication in the next official gazette.
11. Master file.
12. Personal files of the officers.

  
(MISAL KHAN)  
Section Officer (Estt.)





GOVERNMENT OF KHYBER PAKHTUNKHWA  
IRRIGATION DEPARTMENT

6

MINUTES OF THE MEETING OF STANDING SERVICE RULES COMMITTEE HELD ON 12.01.2012 AT 1030 HOURS, UNDER THE CHAIRMANSHIP OF SECRETARY IRRIGATION DEPARTMENT.

A meeting of the Standing Service Rules Committee was held on 12.01.2012 under the Chairmanship of Secretary Irrigation. The following attended the meeting: -

- |      |  |          |
|------|--|----------|
| i.   | Mr. Sajid Khan,<br>Secretary to Govt. of Khyber Pakhtunkhwa,<br>Irrigation Department.                   | Chairman |
| ii.  | Engr. Riaz Ahmad Khan,<br>Chief Engineer (South),<br>Irrigation Department.                              | Member   |
| iii. | Mr. Janal Gul Afridi,<br>Additional Secretary,<br>Irrigation Department.                                 | Member   |
| iv.  | Mr. Mushtaq Hussain,<br>Deputy Secretary (Regulation-III),<br>Establishment & Administration Department. | Member   |
| v.   | Engr. Sahibzada Muhammad Shabir,<br>Superintending Engineer,<br>Peshawar Irrigation Circle, Peshawar.    | Member   |
| vi.  | Mr. Faseeh Ullah,<br>Assistant Legal Drafter,<br>Law Department.   | Member   |
| vii. | Mr. Jan Muhammad,<br>Section Officer (SR-III),<br>Finance Department.                                    | Member   |

2. The meeting started with recitation from the Holy Quran. The chair welcomed the members and asked Additional Secretary, Irrigation Department to apprise the committee. He informed the meeting regarding proposed amendments in Service Rules for appointment of Assistant Engineer/Sub Divisional Officer/Assistant Director (BS-17), Administrative Officer/Budget & Accounts Officer (BS-16), Senior Scale Stenographer (BS-15), Sub Engineer (BS-11), Junior Clerk (BS-7) and Bildar (BS-1) in Irrigation Department.

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The agenda items were discussed and decisions made as under:-

**1. Change in method of appointment for the post of Assistant Engineer/Sub Divisional Officer/Assistant Director**

Existing	Method of Recruitment	Proposed
<p>A Sixty five percent by initial recruitment.</p> <p>B Ten percent by promotion, on the basis of seniority cum fitness, from amongst the Sub Engineer's who has acquired during service degree in Civil or Mechanical Engineering from a recognize university.</p> <p>C Five percent by promotion, on the basis of seniority cum fitness, from amongst the Sub Engineer's who joined service as degree holders in Civil/Mechanical Engineering and</p> <p>D Twenty percent by promotion, on the basis of seniority-cum-fitness from amongst the Sub Engineer's, who hold a diploma of Civil, Mechanical, Electrical or Auto Technology and have passed Departmental Grade A examination with ten years service as such.</p> <p>Note:- Provided that where candidate under Clause (b) &amp; (c) above is not available for promotion, the vacancy shall be filled in by initial recruitment.</p>	<p>A Sixty five percent by initial recruitment.</p> <p>B 12% by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers having degree in Civil or Mechanical Engineering from a recognized university, and have passed departmental grade B&amp;A examination with five year service as such.</p> <p>C 8% by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers having degree in B.Tech (Hons) and have passed departmental Grade B&amp;A examination with five years service as such.</p> <p>D 15% by promotion, on the basis of seniority-cum-fitness from amongst the Sub Engineers, who hold a diploma of Civil, Mechanical, Electrical or Auto Technology and have passed Departmental Grade B&amp;A examination with ten years service as such.</p> <p>Note-1. Joint seniority list of the B.E/B.Sc degree holder Sub Engineers shall be maintained and their seniority is to be reckoned from the date of their 1<sup>st</sup> appointment in this category.</p> <p>Note-2. Separate seniority list of the B.Tech (Hons) degree holder Sub Engineers shall be maintained and their seniority is to be reckoned from the date of their 1<sup>st</sup> appointment in this category.</p> <p>Note-3. Separate seniority list of the diploma holder Sub Engineers shall be maintained and their seniority is to be reckoned from the date of their 1<sup>st</sup> appointment in this category.</p> <p>Note-4. The quota of (B) above shall be filled in from (A) above, if no qualified Sub Engineer is available in (B).</p>	<p>A Sixty five percent by initial recruitment.</p> <p>B 12% by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers having degree in Civil or Mechanical Engineering from a recognized university, and have passed departmental grade B&amp;A examination with five year service as such.</p> <p>C 8% by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers having degree in B.Tech (Hons) and have passed departmental Grade B&amp;A examination with five years service as such.</p> <p>D 15% by promotion, on the basis of seniority-cum-fitness from amongst the Sub Engineers, who hold a diploma of Civil, Mechanical, Electrical or Auto Technology and have passed Departmental Grade B&amp;A examination with ten years service as such.</p> <p>Note-1. Joint seniority list of the B.E/B.Sc degree holder Sub Engineers shall be maintained and their seniority is to be reckoned from the date of their 1<sup>st</sup> appointment in this category.</p> <p>Note-2. Separate seniority list of the B.Tech (Hons) degree holder Sub Engineers shall be maintained and their seniority is to be reckoned from the date of their 1<sup>st</sup> appointment in this category.</p> <p>Note-3. Separate seniority list of the diploma holder Sub Engineers shall be maintained and their seniority is to be reckoned from the date of their 1<sup>st</sup> appointment in this category.</p> <p>Note-4. The quota of (B) above shall be filled in from (A) above, if no qualified Sub Engineer is available in (B).</p>

4- The Additional Secretary Irrigation informed that there is a constant demand from B.Tech (Hons) Degree holder Sub Engineers to treat them at par with B.E/B.Sc (Engineering) Degree holder for the purpose of pay, grade and promotion as per decision of the Higher Education Commission conveyed vide No. 8-36/HEC/A&A/2007/1088 dated 21.05.2007 (Annexure-I). Before processing their appeals / demands, the rules prevailing in certain Federal and Provincial sister Departments were perused. Ministry of Higher Education, Ministry of Housing & Works, Federal Public Service Commission, Higher Education Commission in Central Government and Government of Punjab, Irrigation Department and Department of Technical Education of Khyber Pakhtunkhwa have treated B.Tech (Hon) equivalent with B.E/B.Sc. Engineering Degree, whereas Provincial department of Irrigation, Government of Baluchistan has reserved a separate quota for B.Tech (Hons) Sub Engineers. However, as the matter is still subjudice in various courts of law, therefore, this department had referred the matter to a

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special committee constituted vide notification dated 06.10.2011 to examine the issue before Standing Service Rules Committee could take any decision. The Chairman of the committee briefed the forum that the committee has recommended a 3<sup>rd</sup> option i.e. neither to fully equate B.Tech Hons with degree nor to discriminate or neglect them at all, rather a separate promotion quota will satisfy the genuine demand of the B.Tech (Hons) Degree holder Sub Engineers without involving into controversy with B.E/B.Sc. Engineering Degree holders vis-à-vis PEC recognition.

5 The Law Department representative was of the view that Supreme Court of Pakistan vide judgment in writ petition No. 52 and Lahore High Court decision dated 03.10.2011 in write petition No. 5040/2010 (Annexure-II&III) have directed to treat B.Tech (Hons) at par with B.E/BSc (Engineering) Degree. However the chair observed that the recommendations of the committee seems more practicable, therefore 8% quota is to be reserved for Sub Engineers holding B.Tech (Hons). Representative of Establishment Department objected to clubbing of in-service and pre-service degree holder sub engineers as this will eliminate promotion rights of two separate streams of degree holders sub engineers. The chair was of the view that the very distinction between the in-service and pre-service degree holder is discriminatory and is required to be done away with. Similarly there is no length of service prescribed for none of the category which is also discriminatory as promotion for diploma holder sub engineers is subject to 10 years service and grade-A exam. Therefore by inserting 05 years service length for degree holder sub engineers, this discrimination is now being eliminated. Furthermore, there is hardly any need to discriminate sub engineers on the basis of a qualification which is not prescribed for their original initial recruitment as Sub Engineer. The Secretary of the committee informed the forum that 03% quota of degree holder and 5% from diploma holder sub engineers has been apportioned for B.Tech Hons sub engineers which is their own category of cadre.

6- The representative of the Law Department pointed out that we should straightaway go for equal status of B.Tech Hons and make amendments in all vertical columns as well by inserting the words "or equivalent qualification" after the words "degree in B.E/B.Sc. Engg., Civil or Mechanical" wherever occurring in the existing service rules. The Chief Engineer Irrigation pointed out that certain litigations are still in the court, therefore we should restrict ourselves to the view point of the chair for the time being till final decision upon Write Petition filed by one of the stake holder. The forum agreed to the above amendments.

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II. Change in method of recruitment for the post of Admn: Officer/Budget & Accounts Officer

Existing	Nomenclature	Proposed	Method of Recruitment	
			Existing	Proposed
Administrative Officer / Budget & Accounts Officer (BS-16)			By promotion on the basis seniority-cum-fitness from amongst the Superintendent of the Department having at least 03 year service.	By promotion on the basis seniority-cum-fitness from amongst the Superintendent having at least 01 year service as such.

7- The forum was told that only change is being made to delete the scale as the post has been reflected in Budget Book with BS-17, so as to harmonize them with Establishment Department instruction and to remove bottleneck in promotion of existing incumbents. The forum was informed that such posts are to be filled from amongst the Superintendent having got promoted after a lengthy trail of promotion, to which that usually reaches at the stage near superannuation due to some very few posts beneath. Therefore, the prescribed length of service as Superintendent needs to be reduced from 03 to 01 year. The forum agreed.

III. Change in method of recruitment for the post of Sub Engineer (BS-11)

Existing	Method of Recruitment	
	Existing	Proposed
<p>A. 80% by initiate recruitment; and</p> <p>B. 20% by promotion on the basis of seniority-cum-fitness, from amongst the Canal Inspectors, Work Takers, Gauge Readers, Surveyors and other establishments having Diploma of Associate Engineering in Civil, Mechanical, Electrical or Auto Technology from a recognized Institute or Board of Technical Education of Govt. with at least 10 years service, and have passed the departmental grade-B and grade-A examination</p>		<p>A. 80% by initiate recruitment; and</p> <p>B. 15% by promotion, on the basis of seniority-cum-fitness, from amongst the Canal Inspectors, Work Takers, Gauge Readers, Surveyors having Diploma of Associate Engineering in Civil, Mechanical, Electrical or Auto Technology from a recognized Institute of Pakistan / Board of Technical Education, having passed the departmental grade-B and grade-A examination with at least 07 years service as such and;</p> <p>C. 5% by promotion on the basis of seniority-cum-fitness, from amongst the members of service holding posts of Canal Inspectors, Work Taker, Work Munshi, Surveyor and work Superintendent, having passed the departmental grade-B exam and with at least 10 years service as such.</p>

8 The forum was informed that the existing employees mentioned at Serial No. (C) in the proposed column, are being considered for promotion without any qualification of DAE in C&W Department vide their Service Rules, being attached to the minutes (Annexure-IV). The Chair however, pointed out that there must be a longer service for non-diploma holder Canal Inspectors etc, which was proposed seven (07) years for diploma holder and ten (10) years for non-diploma holder canal inspectors, work munchies, work taker, surveyors and work superintendents and have passed the departmental grade-B exam as such. The representative of Establishment Department pointed out missing of Gauge Reader and Surveyor against at Serial No. (C), in the working paper from the

benefit of promotion as Sub Engineer. The forum accepted inclusion of Surveyor, whereas in case of the Gauge Reader, the Chief Engineer, Irrigation clarified that nature of the job of Gauge Reader is not technical as compared to other categories, hence it has been excluded. The forum agreed with the amendments.

**IV. Change in qualification for the post of Senior Scale Stenographer (BS-15)**

Existing	Qualification	
	Existing	Proposed
A. Bachelor's Degree / B.Com from a recognized university; and	A. Bachelor's Degree or equivalent qualification from a recognized University and	A. Bachelor's Degree or equivalent qualification from a recognized University and
B. A speed of 100 words per minute in short hand in English and 40 words per minute in English typing.	B. A speed of 80 WPM in short-hand in English & 40 WPM in English typing.	B. A speed of 80 WPM in short-hand in English & 40 WPM in English typing.

The Chief Engineer Irrigation said that the shorthand speed is being curtailed from 100 wpm to 80 wpm on the recommendation of the Khyber Pakhtunkhwa Public Service Commission which was exhibited to the forum and is being attached with the minutes. (Annexure-V). Representative of the Establishment Department observed that the Junior Scale Stenographers are being deprived from promotion in the case of circle cadre. However, the Chief Engineer informed that there is only one post of Senior Scale Stenographer in each circle, whereas Junior Scale Stenographer does not exist in the circle cadre, therefore, neither anyone will be deprived from promotion nor split of single seat is possible.

**V. Change in method of recruitment for the post of Junior Clerk (BS-7)**

Existing	Method of Recruitment	
	Existing	Proposed
(a) Sixty Seven percent by initial recruitment; and	(a) Sixty Seven percent by initial recruitment; and	(a) Sixty Seven percent by initial recruitment; and
(b) Thirty three percent by promotion, from amongst the Dattaries, Record Lifters, Naib Qasids, Chowkidars and other equivalent posts who have Secondary School Certificate and are under 45 years of age and have at least two years service as such in the respective Regional and Circle Office Cadre	(b) Thirty three percent by promotion, from amongst the Dattaries, Record Lifters, Naib Qasids, Chowkidars and other equivalent posts who have Secondary School Certificate and have at least two years service as such in the respective regional and Circle Office Cadre	(b) Thirty three percent by promotion, from amongst the Dattaries, Record Lifters, Naib Qasids, Chowkidars and other equivalent posts who have Secondary School Certificate and have at least two years service as such in the respective regional and Circle Office Cadre
<b>Note</b> For the purpose of promotion, there shall be maintained a joint seniority list of Dattaries, Record Lifters, Naib Qasids, Chowkidars with reference to the date of regular appointment to the post or that of acquiring the Secondary school certificate whichever is later, provided that if two dates are the same, the person older in age or having longer service, whichever is more beneficial to him, shall rank senior.	<b>Note</b> For the purpose of promotion, there shall be maintained a joint seniority list of Dattaries, Record Lifters, Naib Qasids, Chowkidars with reference to the date of regular appointment to the post or that of acquiring the Secondary school certificate whichever is later, provided that if two dates are the same, the person older in age or having longer service, whichever is more beneficial to him, shall rank senior.	<b>Note</b> For the purpose of promotion, there shall be maintained a joint seniority list of Dattaries, Record Lifters, Naib Qasids, Chowkidars with reference to the date of regular appointment to the post or that of acquiring the Secondary school certificate whichever is later, provided that if two dates are the same, the person older in age or having longer service, whichever is more beneficial to him, shall rank senior.

*[Handwritten signature]*

10. The forum was apprised that restriction of age limit of forty five (45) year in 33% promotion quota meant for Secondary School Certificate holders Daffaries, Record Lifters, Naib Qasids and Chowkidars is not justified, therefore it must be deleted. The forum agreed.

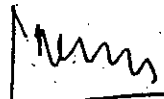
**VI. Change in the age limit for initial appointment of Bildar**

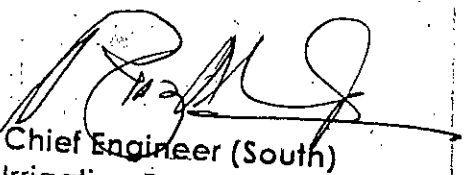
Existing  
18-30 years


Age Limit	
Proposed	
18-32 years	

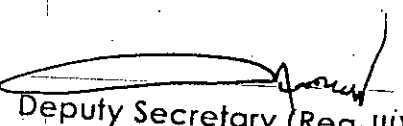
11. The word "30" is being replaced with the word "32" as per approval by the Governor, Khyber Pakhtunkhwa and instruction conveyed by the S&GAD vide notification No. SOR-I(S&GAD)4-1/80-Vol-III dated 12.06.1999.

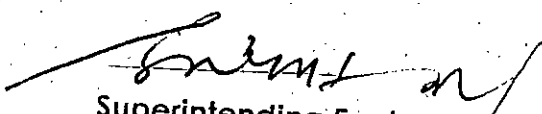
12. After detailed discussion, the Standing Service Rules Committee recommended the amendments in the Service Rules for appointment against the posts in the Irrigation Department as per details given above and are also being attached separately as appendix-A.


  
Secretary Irrigation  
Chairman

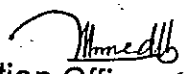
  
Chief Engineer (South)  
Irrigation Department  
(Member) *(Each page initialed)*

  
Additional Secretary  
Irrigation Department  
(Member)

  
Deputy Secretary (Reg-III)  
Establishment Department  
(Member)

  
Superintending Engineer,  
Peshawar Irrigation Circle, Peshawar  
(Member)

  
Assistant Legal Drafter,  
Law Department  
(Member)

  
Section Officer (SR-III),  
Finance Department  
(Member)



## **KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, MONDAY, 25TH JUNE, 2012.

### **GOVERNMENT OF KHYBER PAKHTUNKHWA,** **IRRIGATION DEPARTMENT.**

#### **NOTIFICATION**

Dated: 25<sup>th</sup> June, 2012.

**No. SOE/IRRI/23-5/2010-11.** --- In pursuance of the provisions contained in sub-rule (2) of rule-3 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Irrigation Department in consultation with the Establishment Department and the Finance Department, hereby directs that in this Department's Notification No. SO(E)Irr:/23-5/73 dated 17.02.2011, the following amendments shall be made namely:-

#### **AMENDMENTS**

In the Appendix,

- i. Against Serial No. 4, in column No. 5, for the existing entries, in clause (b), (c) and (d), the following shall be respectively substituted, namely:

"(b) twelve percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers, having degree in Civil Engineering or Mechanical Engineering from a recognized university and have passed departmental grade B&A examination with five year service of such.

Note- For the purpose of Clause (b), a Joint seniority list of the Sub Engineers having Degree in Civil Engineering or Mechanical Engineering shall be maintained and their seniority is to be reckoned from the date of their 1<sup>st</sup> appointment as Sub Engineer.

(c) eight percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers, having Degree in B. Tech (Hons) and have passed departmental Grade B and A examination with five years service as such; and

Note- For the purpose of clause (c), a seniority list of Sub Engineers having Degree in B. Tech (Hons) shall be maintained and their seniority is to be reckoned from the date of their 1<sup>st</sup> appointment as Sub Engineer.

(d) fifteen percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers, who hold a Diploma of Associate Engineer in Civil, Mechanical, Electrical or Auto Technology and have passed departmental Grade B and A examination, within five years service as such.

Note- For the purpose of clause (d), a seniority list of Sub Engineers having Diploma of Associate Engineering in Civil Mechanical, Electrical or Auto Technology shall be maintained and their seniority is to be reckoned from the date of their 1<sup>st</sup> appointment as Sub Engineer.

Note- The quota of clause (b), (c) and (d), above respectively shall be filled in by initial recruitment, if no suitable Sub Engineer is available for promotion;

- ii. against serial No. 5, in column No. 5, for the existing entries in clause (b), the following shall be substituted, namely:
  - (b) fifteen percent by promotion, on the basis of seniority-cum-fitness, from amongst the Canal Inspectors, Work Takers, Gauge Readers, Surveyors, having Diploma of Associate Engineering in Civil, Mechanical, Electrical or Auto Technology from a recognized Board of Technical Education, having passed the departmental Grade-B and Grade-A examination, with at-least seven years service as such; and
  - (c) five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Canal Inspectors, Work Takers, Work Munshi, Surveyors, and work superintendent, having passed the departmental Grade-B examination with at-least ten years service as such;
- iii. Against serial No. 7, in column No. 5, for the words "three years" the words "one year" shall be substituted;
- iv. against serial No. 9, in column No. 3, for the existing entry the following shall be substituted, namely:
  - a. Bachelor Degree or equivalent qualification from a recognized University; and
  - b. A speed of 80 words per minute in short hand in English and 40 words per minute in English typing; and
- v. against serial No. 13, in column No. 5, in clause (b), the words and figures "and are under 45 years of age" shall be deleted.

**SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA  
IRRIGATION DEPARTMENT.**



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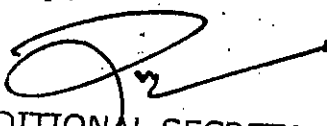
**WORKING PAPER**

**SUBJECT: AMENDMENTS IN THE KHYBER PAKHTUNKHWA  
IRRIGATION DEPARTMENT RECRUITMENT AND  
APPOINTMENT RULES**

In consultation with the Standing Service Rules Committee, the amended Service Rules for various categories of establishment of Irrigation Department, Khyber Pakhtunkhwa were notified vide No. SO(E)/IRR/23-5/73 dated 17-02-2011 (Annexure-I), against which the pre service graduate Sub Engineer (BS-11) and non diploma holder Work Munshis, Canal Inspectors, Work Takers and Work Superintendent preferred appeals. Their appeals were discussed in a Pre-SSRC meeting held on 7-5-2011 and it was agreed to place the proposals before the SSRC for consideration. Similarly B.Tech (Hons) degree holder Sub Engineers also preferred appeals (Annexure-II) for including them in the quota reserved for graduate Sub Engineers for promotion to the post of Assistant Engineer (BS-17).

In order to examine the appeals in light of order of Supreme Court of Pakistan in Sou Motu Petition No. 52 of 1993 and decisions taken by the various government departments, i.e, Establishment Division, Ministry of Education, Higher Education Commission, WAPDA, FPSC, C&W Department Punjab and Technical Education Department, Khyber Pakhtunkhwa reg: B.Tech (Hons) at par with B.E/B.Sc (Engineering), the competent authority was pleased to constitute a committee to examine as to whether the case is feasible for placing before the SSRC or not (Annexure-III). The committee after thoroughly scrutinizing the appeals and the references annexed with the appeals alongwith advice of the E&AD Department given to the PHE Department (Annexure-IV), recommended to place the case before the SSRC to consider and reserve 8% share for promotion of B.Tech (Hons) degree holder Sub Engineer to the post of Assistant Engineer (Annexure-V).

The SSRC is requested to consider the proposals at Serial No. 4, 5, 7 and 9 of the appendix (Annexure-V).

  
ADDITIONAL SECRETARY  
IRRIGATION DEPARTMENT  
GOVT. OF KHYBER PAKHTUNKHWA



GOVERNMENT OF KHYBER PAKHTUNKHWA  
IRRIGATION DEPARTMENT

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MINUTES OF THE MEETING OF STANDING SERVICE RULES COMMITTEE HELD ON  
12.01.2012 AT 1030 HOURS UNDER THE CHAIRMANSHIP OF SECRETARY IRRIGATION  
DEPARTMENT.

A meeting of the Standing Service Rules Committee was held on 12.01.2012 under the Chairmanship of Secretary Irrigation. The following attended the meeting: -

- |      |  |          |
|------|--|----------|
| i.   | Mr. Sajid Khan,<br>Secretary to Govt. of Khyber Pakhtunkhwa,<br>Irrigation Department.                   | Chairman |
| ii.  | Engr. Riaz Ahmad Khan,<br>Chief Engineer (South),<br>Irrigation Department.                              | Member   |
| iii. | Mr. Janal Gul Afridi,<br>Additional Secretary,<br>Irrigation Department.                                 | Member   |
| iv.  | Mr. Mushtaq Hussain,<br>Deputy Secretary (Regulation-III),<br>Establishment & Administration Department. | Member   |
| v.   | Engr. Sahibzada Muhammad Shabir,<br>Superintending Engineer,<br>Peshawar Irrigation Circle, Peshawar.    | Member   |
| vi.  | Mr. Faseeh Ullah,<br>Assistant Legal Drafter,<br>Law Department.   | Member   |
| vii. | Mr. Jan Muhammad,<br>Section Officer (SR-III),<br>Finance Department.                                    | Member   |

2- The meeting started with recitation from the Holy Quran. The chair welcomed the members and asked Additional Secretary, Irrigation Department to apprise the committee. He informed the meeting regarding proposed amendments in Service Rules for appointment of Assistant Engineer/Sub Divisional Officer/Assistant Director (BS-17), Administrative Officer/Budget & Accounts Officer (BS-16), Senior Scale Stenographer (BS-15), Sub Engineer (BS-11), Junior Clerk (BS-7) and Bildar (BS-1) in Irrigation Department.

B

25

The agenda items were discussed and decisions made as under:-

**1. Change in method of appointment for the post of Assistant Engineer/Sub Divisional Officer/Assistant Director**

Existing	Method of Recruitment	Proposed
A Sixty five percent by initial recruitment.		A. Sixty five percent by initial recruitment.
B Ten percent by promotion, on the basis of seniority cum fitness, from amongst the Sub-Engineers who has acquired during service degree in Civil or Mechanical Engineering from a recognize university.		B. 12% by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers having degree in Civil or Mechanical Engineering from a recognized university, and have passed departmental grade B&A examination with five year service as such.
C. Five percent by promotion, on the basis of seniority cum fitness, from amongst the Sub Engineer's who joined service as degree holders in Civil/Mechanical Engineering and		C. 8% by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers having degree in B.Tech (Hons) and have passed departmental Grade B&A examination with five years service as such.
D. Twenty percent by promotion, on the basis of seniority-cum-fitness from amongst the Sub Engineer's, who hold a diploma of Civil, Mechanical, Electrical or Auto Technology and have passed Departmental Grade A examination with ten years service as such.		D. 15% by promotion, on the basis of seniority-cum-fitness from amongst the Sub Engineers, who hold a diploma of Civil, Mechanical, Electrical or Auto Technology and have passed Departmental Grade B&A examination with ten years service as such.
Note:- Provided that where candidate under Clause (b) & (c) above is not available for promotion, the vacancy shall be filled in by initial recruitment.		Note-1. Joint seniority list of the B.E/B.Sc degree holder Sub Engineers shall be maintained and their seniority is to be reckoned from the date of their 1 <sup>st</sup> appointment in this category. Note-2. Separate seniority list of the B.Tech (Hons) degree holder Sub Engineers shall be maintained and their seniority is to be reckoned from the date of their 1 <sup>st</sup> appointment in this category. Note-3. Separate seniority list of the diploma holder Sub Engineers shall be maintained and their seniority is to be reckoned from the date of their 1 <sup>st</sup> appointment in this category. Note-4. The quota of (B) above shall be filled in from (A) above, if no qualified Sub Engineer is available in (B).

4. The Additional Secretary Irrigation informed that there is a constant demand from B.Tech (Hons) Degree holder Sub Engineers to treat them at par with B.E/B.Sc (Engineering) Degree holder for the purpose of pay, grade and promotion as per decision of the Higher Education Commission conveyed vide No. 8-36/HEC/A&A/2007/1088 dated 21.05.2007 (Annexure-I). Before processing their appeals / demands, the rules prevailing in certain Federal and Provincial sister Departments were perused. Ministry of Higher Education, Ministry of Housing & Works, Federal Public Service Commission, Higher Education Commission in Central Government and Government of Punjab, Irrigation Department and Department of Technical Education of Khyber Pakhtunkhwa have treated B.Tech (Hon) equivalent with B.E/B.Sc. Engineering Degree, whereas Provincial department of Irrigation, Government of Baluchistan has reserved a separate quota for B.Tech (Hons) Sub Engineers. However, as the matter is still subjudice in various courts of law, therefore, this department had referred the matter to a

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special committee constituted vide notification dated 06.10.2011 to examine the issue before Standing Service Rules Committee could take any decision. The Chairman of the committee briefed the forum that the committee has recommended a 3<sup>rd</sup> option i.e. neither to fully equate B.Tech Hons with degree nor to discriminate or neglect them at all, rather a separate promotion quota will satisfy the genuine demand of the B.Tech (Hons) Degree holder Sub Engineers without involving into controversy with B.E/B.Sc. Engineering Degree holders vis-à-vis PEC recognition.

5 The Law Department representative was of the view that Supreme Court of Pakistan vide judgment in writ petition No. 52 and Lahore High Court decision dated 03.10.2011 in write petition No. 5040/2010 (Annexure-II&III) have directed to treat B.Tech (Hons) at par with B.E/BSc (Engineering) Degree. However the chair observed that the recommendations of the committee seems more practicable, therefore 8% quota is to be reserved for Sub Engineers holding B.Tech (Hons). Representative of Establishment Department objected to clubbing of in-service and pre-service degree holder sub engineers as this will eliminate promotion rights of two separate streams of degree holders sub engineers. The chair was of the view that the very distinction between the in-service and pre-service degree holder is discriminatory and is required to be done away with. Similarly there is no length of service prescribed for none of the category which is also discriminatory as promotion for diploma holder sub engineers is subject to 10 years service and grade-A exam. Therefore by inserting 05 years service length for degree holder sub engineers, this discrimination is now being eliminated. Furthermore, there is hardly any need to discriminate sub engineers on the basis of a qualification which is not prescribed for their original initial recruitment as Sub Engineer. The Secretary of the committee informed the forum that 03% quota of degree holder and 5% from diploma holder sub engineers has been apportioned for B.Tech Hons sub engineers which is their own category of cadre.

6- The representative of the Law Department pointed out that we should straightaway go for equal status of B.Tech Hons and make amendments in all vertical columns as well by inserting the words "or equivalent qualification" after the words "degree in B.E/B.Sc. Engg.; Civil or Mechanical" wherever occurring in the existing service rules. The Chief Engineer Irrigation pointed out that certain litigations are still in the court, therefore we should restrict ourselves to the view point of the chair for the time being till final decision upon Write Petition filed by one of the stake holder. The forum agreed to the above amendments.

**II. Change in method of recruitment for the post of Admn: Officer/Budget & Accounts Officer**

Existing	Nomenclature	Proposed	Method of Recruitment	
			Existing	Proposed
Administrative Officer / Budget & Accounts Officer (BS-16)			By promotion on the basis seniority-cum-fitness from amongst the Superintendent of the Department having at least 03 year service.	By promotion on the basis seniority-cum-fitness from amongst the Superintendent having at least 01 year service as such.

7- The forum was told that only change is being made to delete the scale as the post has been reflected in Budget Book with BS-17, so as to harmonize them with Establishment Department instruction and to remove bottleneck in promotion of existing incumbents. The forum was informed that such posts are to be filled from amongst the Superintendant having got promoted after a lengthy trail of promotion, to which that usually reaches at the stage near superannuation due to some very few posts beneath. Therefore, the prescribed length of service as Superintendant needs to be reduced from 03 to 01 year. The forum agreed.

**III. Change in method of recruitment for the post of Sub Engineer (BS-11)**

Existing	Method of Recruitment	
	Existing	Proposed
<p>A. 80% by initiate recruitment; and</p> <p>B. 20% by promotion on the basis of seniority-cum-fitness, from amongst the Canal Inspectors, Work Takers, Gauge Readers, Surveyors and other establishments having Diploma of Associate Engineering in Civil, Mechanical, Electrical or Auto Technology from a recognized Institute or Board of Technical Education of Govt. with at least 10 years service, and have passed the departmental grade-B and grade-A examination</p>	<p>A. 80% by initiate recruitment; and</p> <p>B. 15% by promotion, on the basis of seniority-cum-fitness, from amongst the Canal Inspectors, Work Takers, Gauge Readers, Surveyors having Diploma of Associate Engineering in Civil, Mechanical, Electrical or Auto Technology from a recognized Institute of Pakistan / Board of Technical Education, having passed the departmental grade-B and grade-A examination with at least 07 years service as such and;</p> <p>C. 5% by promotion on the basis of seniority-cum-fitness, from amongst the members of service holding posts of Canal Inspectors, Work Taker, Work Munshi, Surveyor and work Superintendent, having passed the departmental grade-B exam and with at least 10 years service as such.</p>	

8 The forum was informed that the existing employees mentioned at Serial No. (C) in the proposed column, are being considered for promotion without any qualification of DAE in C&W Department vide their Service Rules, being attached to the minutes (Annexure-IV). The Chair however, pointed out that there must be a longer service for non-diploma holder Canal Inspectors etc, which was proposed seven (07) years for diploma holder and ten (10) years for non-diploma holder canal inspectors ; work munchies, work taker, surveyors and work superintendents and have passed the departmental grade-B exam as such. The representative of Establishment Department pointed out missing of Gauge Reader and Surveyor against at Serial No. (C), in the working paper from the

benefit of promotion as Sub Engineer. The forum accepted inclusion of Surveyor, whereas in case of the Gauge Reader, the Chief Engineer, Irrigation clarified that nature of the job of Gauge Reader is not technical as compared to other categories, hence it has been excluded. The forum agreed with the amendments.

**IV. Change in qualification for the post of Senior Scale Stenographer (BS-15)**

Existing	Qualification	
		Proposed
A. Bachelor's Degree / B.Com from a recognized university; and		A. Bachelor's Degree or equivalent qualification from a recognized University and
B. A speed of 100 words per minute in short hand in English and 40 words per minute in English typing.		B. A speed of 80 WPM in short-hand in English & 40 WPM in English typing.

9- The Chief Engineer Irrigation said that the shorthand speed is being curtailed from 100 wpm to 80 wpm on the recommendation of the Khyber Pakhtunkhwa Public Service Commission which was exhibited to the forum and is being attached with the minutes (Annexure-V). Representative of the Establishment Department observed that the Junior Scale Stenographers are being deprived from promotion in the case of circle cadre. However, the Chief Engineer informed that there is only one post of Senior Scale Stenographer in each circle, whereas Junior Scale Stenographer does not exist in the circle cadre, therefore, neither anyone will be deprived from promotion nor split of single seat is possible.

**V. Change in method of recruitment for the post of Junior Clerk (BS-7)**

Existing	Method of Recruitment	
		Proposed
(a) Sixty Seven percent by initial recruitment; and		(a) Sixty Seven percent by initial recruitment; and
(b) Thirty three percent by promotion, from amongst the Dattaries, Record Lifters, Naib Qasids, Chowkidars and other equivalent posts who have Secondary School Certificate and are under 45 years of age and have at least two years service as such in the respective. Regional and Circle Office Cadre.		(b) Thirty three percent by promotion, from amongst the Dattaries, Record Lifters, Naib Qasids, Chowkidars and other equivalent posts who have Secondary School Certificate and have at least two years service as such in the respective regional and Circle Office Cadre.
<b>Note</b> For the purpose of promotion, there shall be maintained a joint seniority list of Dattaries, Record Lifters, Naib Qasids, Chowkidars with reference to the date of regular appointment to the post or that of acquiring the Secondary school certificate whichever is later, provided that if two dates are the same, the person older in age or having longer service, whichever is more beneficial to him, shall rank senior.		<b>Note</b> For the purpose of promotion, there shall be maintained a joint seniority list of Dattaries, Record Lifters, Naib Qasids, Chowkidars with reference to the date of regular appointment to the post or that of acquiring the Secondary school certificate whichever is later, provided that if two dates are the same, the person older in age or having longer service, whichever is more beneficial to him, shall rank senior.

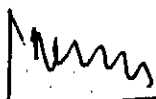
10. The forum was apprised that restriction of age limit of forty five (45) year in 33% promotion quota meant for Secondary School Certificate holders Daflaries, Record Lifters, Naib Qasids and Chowkidars is not justified, therefore it must be deleted. The forum agreed.

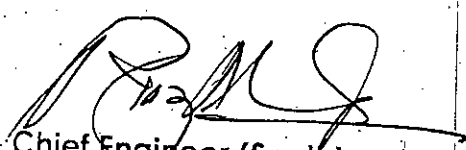
**VI. Change in the age limit for initial appointment of Bildar**

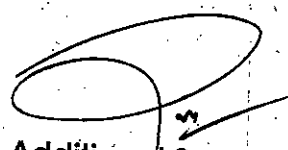
Existing	Age Limit	
	Proposed	
18-30 years	18-32 years	

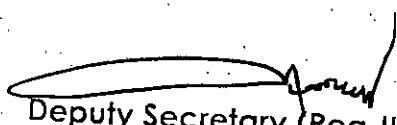
11. The word "30" is being replaced with the word "32" as per approval by the Governor, Khyber Pakhtunkhwa and instruction conveyed by the S&GAD vide notification No. SOR-I(S&GAD)4-1/80 Vol-III dated 12.06.1999.

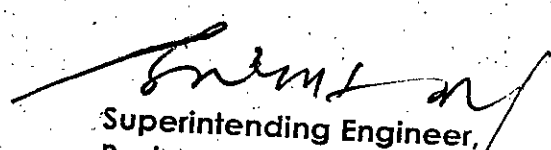
12. After detailed discussion, the Standing Service Rules Committee recommended the amendments in the Service Rules for appointment against the posts in the Irrigation Department as per details given above and are also being attached separately as appendix-A.


  
Secretary Irrigation  
Chairman

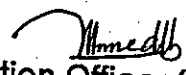
  
Chief Engineer (South)  
Irrigation Department  
(Member) *(Each page initials?)*

  
Additional Secretary  
Irrigation Department  
(Member)

  
Deputy Secretary (Reg-III)  
Establishment Department  
(Member)

  
Superintending Engineer,  
Peshawar Irrigation Circle, Peshawar  
(Member)

  
Assistant Legal Drafter,  
Law Department  
(Member)

  
Section Officer (SR-III),  
Finance Department  
(Member)

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**MINUTES OF THE MEETING OF STANDING SERVICE RULES COMMITTEE (SSRC)**  
**HELD IN THE OFFICE OF SECRETARY POPULATION WELFARE DEPARTMENT ON**  
**05-01-2021**

A meeting of Standing Service Rules Committee was held on 05/01/2021 at 10:30 hours in the office of Secretary Population Welfare Department Khyber Pakhtunkhwa under his chairmanship to discuss the enclosed agenda / amendments proposed in the Existing Service Rules for various posts (Annex-I):-

2. The following attended the meeting.

- |   |   |          |
|---|---|----------|
| 1. Mr. Asghar Ali, Secretary, PWD, KP                           | - | Chairman |
| 2. Mr. Hidayat Khan, Director (A&P), PW, KP                     | - | Member   |
| 3. Mr. Muhammad Yousaf Khan, Dy. Secy: (R-III), Estt: Deptt:    | - | Member   |
| 4. Mr. Lal Saeed Khattak, SO (Estt); Population Welfare Deptt.: | - | Member   |
| 5. Mr. Rahmat Khan, SO(R-I) Finance Department                  | - | Member   |

3. The Chairman welcomed all the members and apprised the committee regarding the proposed amendments in the existing service rules. After detailed discussion, the Committee unanimously agreed as under:-

- (1) **Deputy Director (NT) / District Population Welfare Officer / Senior Instructor (NT) / Demographer (BPS-18)**

Service rules for the post of Deputy Director (NT) / District Population Welfare Officer / Senior Instructor (NT) / Demographer (BPS-18) has been reviewed and nomenclature of Assistant Director (Litigation) has been added in the joint seniority list of Assistant Directors, Deputy District Population Welfare Officers (Non-Tech), Tehsil Population Welfare Officers, Deputy Demographers, Accounts Officers and Instructor (Non-Tech). The amended service rules will be as follows:-

Method of appointment
By promotion on the basis of seniority-cum-fitness, from amongst the Assistant Directors, Assistant Director (Litigation), Deputy District Population Welfare Officers (Non-Tech), Tehsil Population Welfare Officers, Deputy Demographers, Accounts Officers and Instructor (Non-Tech) with five years' service as such:
Provide that if no suitable candidate is available for promotion, then by transfer from amongst the suitable officers of the Provincial Govt.
Note: For the purpose of promotion, a joint seniority list shall be maintained from amongst the Assistant Directors, Assistant Director (Litigation), Deputy District Population Welfare Officers (Non-Tech), Tehsil Population Welfare Officers, Deputy Demographers, Accounts Officers and Instructor (Non-Tech).

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(2) Assistant Director / Tehsil Population Welfare Officer / Deputy District Population Welfare Officer (Non-Tech) / Deputy Demographer / Instructor (Non-Tech) and Accounts Officer (BPS-17)

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(a) Amendments in the Nomenclature of post:

The post of Deputy Demographer (BPS-17) is a more technical and specialized post. Therefore it needs to be excluded from the nomenclature and fresh service rules may be framed for the said post with method of recruitment "100% by initial recruitment". Hence amendments are proposed for approval of SSRC;

(b) Amendment required in minimum qualification prescribed for appointment by initial recruitment.

Four (04) year BS Degree needs to be included in the Service Rules, therefore the amendments are proposed in minimum qualification prescribed for appointment by initial recruitment for the post of Assistant Director / Tehsil Population Welfare Officer / Deputy District Population Welfare Officer (Non-Tech) / Instructor (Non-Tech) / Accounts Officer:

(c) Amendment required in method of recruitment

With reference to various representations on Existing Service Rules of Assistant Director / Tehsil Population Welfare Officer / Deputy District Population Welfare (Non-Tech) / Instructor (Non-Tech) / Deputy Demographer / Accounts officer, BPS-17 received from Assistant District Population Welfare Officers (ADPWOs), Admn Officers, Superintendent, Accountants and exclusion of Deputy Demographer post from nomenclature the amendments are proposed in method of recruitment of Assistant Director / Tehsil Population Welfare Officer / Deputy District Population Welfare Officer (Non-Tech) / Instructor (Non-Tech) / Accounts Officer. The committee unanimously agreed to the following amendments:-

Nomenclature of post	Minimum qualification prescribed for appointment by initial recruitment	Age limit for initial recruitment	Method of appointment
Assistant Director / Tehsil Population Welfare Officer / Deputy District Population Welfare Officer (Non-Tech) / Instructor (Non-Tech) and Accounts Officer (BPS-17)	i. Second Class Master's Degree or 04 years BS Degree or equivalent qualification from a recognized University in Sociology, Social Work, Anthropology, Psychology, Business Administration (MBA), Public Administration (MPA), Economics, Statistics, Political Science, Chemistry, Population Studies; or ii. MBBS or equivalent qualification from a recognized University and completion of House Job Training.	--	i. 50% by promotion from amongst the officers having at least Second Class Bachelor's Degree from a recognized University with three years' service as such, in the following manner, namely: (a) 30% from amongst the ADPWOs, Superintendent, PS, Admn Officers, Statistical Investigators and M&E Officers; (joint seniority amongst the Assistant District Population Welfare Officers, Superintendent, Private Secretary,

			<p>Admn Officers, Statistical Investigator and M&amp;E Officers as per inter-se-seniority will be maintained.</p> <p>(b) 20% from amongst the Accountants; and</p> <p>Provided that if no suitable candidate is available for promotion, then by initial recruitment.</p> <p>50% by initial recruitment.</p>
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**(3) Deputy Demographer (BPS-17)**

The post of Deputy Demographer, BPS-17 excluded from the nomenclature of AD / TPWO / DDPWO (NT) / Instructor (NT) / Accounts Officer. Hence fresh Service Rules for the post have been proposed. The committee unanimously agreed to the following amendments:-

Nomenclature of post	Minimum qualification prescribed for appointment by initial recruitment	Age limit for initial recruitment	Method of appointment
Deputy Demographer (BPS-17)	Second Class Master's Degree or 04 years BS Degree or equivalent qualification in Economics, Statistics, Demography, Population Studies, or Sociology from a recognized University	22-30 years	100% by initial recruitment.

**(4) Assistant Director (Litigation), BPS-17**

Three years' experience needs to be reduced to one year in the Service Rules for providing opportunities to large number of candidates. Hence amendments are proposed. The committee unanimously agreed to the following amendments:-

Nomenclature of post	Minimum qualification prescribed for appointment by initial recruitment	Age limit for initial recruitment	Method of appointment
Assistant Director (Litigation) (BPS-17)	<ul style="list-style-type: none"> <li>i. LLB or BS Law (five years) from a recognized University;</li> <li>ii. Having being enrolled as practicing Lawyer with the Bar Council; and</li> <li>iii. One year standing experience at the Bar.</li> </ul>	--	--

*[Handwritten signatures and initials]*

(5) Women Medical Officer / Deputy District Population Welfare Officer (Tech) / Instructor (Tech) / NSV Surgeon, BPS-17

In the existing Service Rules for the said cadre "Completion of House Job Training" is missing as compared with Health Department Service Rules (Annex-III). Therefore to bring it at par with Health Department Service Rules it is proposed that minimum qualification prescribed for appointment by initial recruitment for the post of WMO / DDPWO (Tech) / Instructor (Tech) / NSV Surgeon (BPS-17) shall be amended accordingly and eligibility may also be added. The committee unanimously agreed to the following amendments:-

Nomenclature of post	Minimum qualification prescribed for appointment by initial recruitment	Age limit for initial recruitment	Method of appointment
Women Medical Officer / Deputy District Population Welfare Officer (Tech) / Instructor (Tech) / NSV Surgeon, BPS-17	a. MBBS or equivalent qualification from recognized University; and b. Completion of House Job Training.  Eligibility: Female for WMO / DDPWO (Tech) / Instructor (Tech) and Male for NSV Surgeon.	--	---

(6) Database Administrator (BPS-17)

The proposed amendment withdrawn by the Department.

(7) Web Administrator (BPS-17)

The proposed amendment withdrawn by the Department.

(8) Sister Tutor, BPS-17

In the existing Service Rules, 50% posts are reserved for promotion from amongst Assistant Sister Tutor, BPS-15 with five years' service as such and 50% for initial recruitment to the post of Sister Tutor, BPS-17. It is further stated that the post of Sister Tutor, BPS-17 may be reserved 100% for share of promotion of Assistant Sister Tutor, (BPS-15), as no candidate is ready to join this Department as Sister Tutor after advertisement of the post through Public Service Commission. A need was felt to revise the existing method of recruitment and minimum qualification to avoid wastage of time and resources of the government and provide quality faculty to the Institutes. The committee unanimously agreed to the following amendments:-

Nomenclature of post	Minimum qualification prescribed for appointment by initial recruitment	Age limit for initial recruitment	Method of appointment
Sister Tutor (BPS-17)	--	--	<u>100% by promotion</u> on the basis of seniority-cum-fitness from amongst the Assistant Sister Tutor with five years' service as such; and  Provided that if no suitable candidate is available for promotion, then by initial recruitment.

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(9) Accountant, BPS-17

In the existing Service Rules, 80% posts are reserved for promotion from amongst Accounts Assistants with five years' service as such and 20% for Initial recruitment. Need is felt that promotion quota should be 100% as experienced and qualified personnel are available in the lower grade i.e. Accounts Assistant. Therefore amendments have been proposed in the method of recruitment for the post of Accountant. The agenda item discussed in detail, however, the Committee did not agree to the proposed amendments.

(10) Assistant Network Administrator, BPS-15

Four (04) year BS Degree needs to be included in the Service Rules, therefore the amendment is proposed in minimum qualification prescribed for appointment by Initial recruitment. The committee unanimously agreed to the following amendments:-

Minimum qualification prescribed for appointment by Initial recruitment
At least Second Class Master Degree or four (04) years BS Degree in Information Technology or Computer Science or equivalent qualification from a recognized University.

(11) Theatre Nurse, BPS-16

To bring Service Rules for the post at par with Charge Nurse, BPS-16 of Health Department amendments in minimum qualification prescribed for appointment by initial recruitment for the post of Theatre Nurse, BPS-16 have been proposed. Accordingly age limit for initial recruitment for the post of Theatre Nurse has been proposed to bring the Service Rules at par with the Health Department. The committee unanimously agreed to the following amendments:-

Nomenclature of post	Minimum qualification prescribed for appointment by initial recruitment	Age limit for initial recruitment	Method of appointment
Theatre Nurse (BPS-16)	i. At least Second Class B.Sc. Nursing (four years) Degree; or ii. Three years General Nursing Diploma and one year Midwifery or in lieu of Midwifery one year specialized post basic diploma; and iii. Duly registered with Pakistan Nursing Council.  Eligibility: Female.	Age Limit: 21 to 35	--

(12) Store Keeper, BPS-14

The amendments in the minimum qualification has been proposed due to the upgradation of the post of Storekeeper from BPS-8 to BPS-14 and also in the method of appointment. However, the Committee agreed to the proposed amendment in the minimum qualification and did not agree to the method of appointment proposed by the Department.

Nomenclature of post	Minimum qualification prescribed for appointment by initial recruitment	Age limit for Initial recruitment	Method of appointment
Store Keeper (BPS-14)	At least Second Class Bachelor's Degree or equivalent qualification from a recognized University with Diploma in	--	--

Handwritten signatures and initials are present below the table.

(13) Junior Clerk, BPS-11

Amendments in the existing service rules of the Department for the post of Junior Clerk has been proposed on the analogy of Service Rules of the Establishment Department for the post of Junior Clerk, BPS-11. The amended service rules agreed by the Committee is as follows:-

Nomenclature of post	Minimum qualification prescribed for appointment by initial recruitment	Age limit for initial recruitment	Method of appointment
Junior Clerk, BPS-11	i. FA / F.Sc. with Second Division or equivalent qualification from a recognized Board; and  ii. A speed of thirty (30) words per minute in typing.		i. 40% by promotion, on the basis of seniority-cum-fitness, from amongst Naib Qasids, Chowkidars, Duplicating Machine Operator, Ayas / Helpers / Dais, Malis, Cooks, Sweepers, Sweepress, other equivalent posts and Drivers, with two years' service as such who have passed FA / F.Sc. with second division or equivalent qualification from a recognized board.  ii. 60% by initial recruitment.  Note: For the purpose of promotion, there shall be a joint seniority list of the N/Qs, Chowkidars, Duplicating Machine Operator, Ayas / Helper / Dais, Malis, Cooks, Sweepers, Sweepress, other equivalent posts and Drivers with reference to dates of their acquiring the FA/FSc Second Division or equivalent qualification. Provided that  (i) If two or more officials have acquired the FA/FSc Second Division or equivalent qualification in the same session, the inter-se-seniority in the lower post shall be

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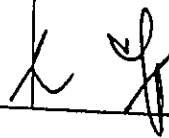
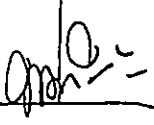

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			<p>maintained for the purpose of determining seniority in the higher post;</p> <p>(ii) Where a senior official does not possess the requisite qualification at the time of filling up a vacancy the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or officials; and</p> <p>Provided further that the condition of FA / FSc or its equivalent qualification from a recognized Board as laid down at clause (i) shall not apply for a period of four years from the date of commencement of this Notification to the existing matriculate incumbents of the post of Naib Qasids, Chowkidars, Duplicating Machine Operator, Ayas / Helpers / Dais, Malis, Cooks, Sweepers, Sweepers and Drivers for promotion to the post of Junior Clerk, BPS-11.</p> <p>If no suitable candidate is available for promotion, then by initial recruitment.</p>
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(14) Family Welfare Worker, BPS-9

There are a large number of FWWs working in the Directorate General Population Welfare, but their ratio of promotion in the existing service rules is very meager, due to which they are waiting for years for their promotion. Their ratio of promotion has been proposed from 25% to 50% and B.Sc. Nursing needs to be included in the method of recruitment in promotion quota for Family Welfare Assistants (Female). Hence amendments were proposed. After detailed discussion, the Committee unanimously agreed to the following amendments:-

Nomenclature of post	Minimum qualification prescribed for appointment by initial recruitment	Age limit for initial recruitment	Method of appointment
Family Welfare Worker, (BPS-9)			<p>i. Thirty percent (30%) by promotion, on the basis of seniority-cum-fitness, from amongst the Family Welfare Assistant (Female)</p> 

		<p>and Aya / Helper / Dai with three years' service as such, who has successfully completed FWW Training from RTIs or B.Sc. Nursing duly registered with Pakistan Nursing Council or Lady Health Visitor Training course from Government Public Health School. Joint eligibility list will be maintained from amongst Family Welfare Assistant (Female) and Aya / Helper / Dai; and</p> <p>ii. Seventy percent (70%) by initial recruitment.</p> <p>Provided that if no suitable candidate is available for promotion, then by initial recruitment.</p>
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**(15) Operation Theatre Technician, BPS-12**

The post of Operation Theatre Technician, BPS-12 was advertised several times but very few candidates applied for the post due to the reason that required qualification for the post is not compatible with current candidates available in the market. Therefore amendments in Service Rules were proposed as at par with Junior Clinical Technician (Surgical), BPS-12, Health Department. After detailed discussion, the Committee agreed to the proposed amendment in the minimum qualification for the post of Operation Theatre Technician, BPS-12 as per analogy of Health Department.

Method of appointment	
i.	At least Second Division Secondary School Certificate with Science from a recognized Board; and
ii.	02 years Diploma in the field of Surgical Technology from Khyber Pakhtunkhwa Medical Faculty (Faculty of Paramedical & Allied Health Sciences) or 02 years Diploma in the field of Surgical Technology from any recognized Institute registered with Khyber Pakhtunkhwa Medical Faculty (Faculty of Paramedical & Allied Health Sciences).

**(16) Male Motivator cum Theatre Assistant, BPS-8**

The post of Male Motivator cum Theatre Assistant, BPS-8 was advertised several times but no candidate applied for the post due to reason that required qualification for the post not compatible with current candidates available in the market. Therefore amendment in Service Rules for the said post were proposed as at par with Junior Clinical Technician (Surgical) BPS-12, Health Department. Hence amendments in minimum qualification prescribed for appointment by initial recruitment for the post of Male Motivator cum Theater Technician (BPS-08) were proposed. After detailed discussion, the Committee agreed to the following proposed amendment in the minimum qualification for the post of Male Motivator cum Theater Technician (BPS-08).

Method of appointment	
i.	At least Second Division Secondary School Certificate with Science from a recognized Board; and
ii.	02 years Diploma in the field of Surgical Technology from Khyber Pakhtunkhwa Medical

*[Handwritten signatures and initials]*

Faculty (Faculty of Paramedical & Allied Health Sciences) or 02 years Diploma in the field of Surgical Technology from any recognized Institute registered with Khyber Pakhtunkhwa Medical Faculty (Faculty of Paramedical & Allied Health Sciences).

(17) Qasid / Naib Qasid / Chowkidar, BPS-3

Since Qasid post does not exist in the Directorate General Population Welfare, therefore it needs to be deleted from the nomenclature. After detailed discussion, the Committee agreed to the following proposed amendment in the nomenclature of the said post.


Nomenclature of the post
Naib Qasid / Chowkidar


(18) Cook, BPS-3

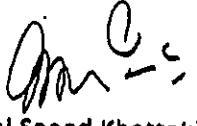
The existing minimum qualification required for the post of Cook is literate which is not the desirable qualification to meet the requirement of the post. Keeping in view the nature of the post, the amendments were proposed by the Department to review the existing minimum qualification and add experience for qualification of cooking. After detailed discussion, the Committee agreed to the following proposed amendment in the minimum qualification prescribed for appointment by initial recruitment.

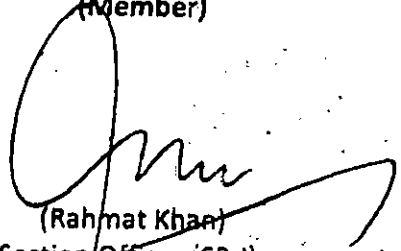
Minimum qualification for initial recruitment
i. Primary Pass;
ii. 2 years relevant experience.


The meeting ended with mutual vote of thanks.

  
(Muhammad Yousaf Khan)  
Deputy Secretary (Reg-III)  
Establishment Department  
(Member)

  
(Hidayat Khan)  
Director (A&F), P.W. KP  
(Member)

  
(Lal Saeed Khattak)  
Section Officer (Estt)  
Population Welfare Deptt:  
(Member)

  
(Rahmat Khan)  
Section Officer: (SR-I),  
Finance Department, Khyber Pakhtunkhwa  
(Member)

  
(Asghar Ali)

08.01.21  
Secretary to Govt; of Khyber Pakhtunkhwa  
Population Welfare Department  
CHAIRMAN



EXTRAORDINARY  
GOVERNMENT



REGISTERED NO. P.III  
GAZETTE

**KHYBER PAKHTUNKHWA**  
Published by Authority

PESHAWAR, FRIDAY, 23<sup>rd</sup> APRIL, 2021.

GOVERNMENT OF KHYBER PAKHTUNKHWA  
POPULATION WELFARE DEPARTMENT

**NOTIFICATION**

Dated Peshawar, the 30<sup>th</sup> March, 2021.

**SOE(PWD)4-10/2018/SSRC:** In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Population Welfare Department in consultation with the Establishment Department and the Finance Department hereby revises in this Departments Notification No. SOE(PWD)4-10/06/Vol-II, dated 19<sup>th</sup> February 2009, the following further amendments shall be made, namely:

**AMENDMENTS**

the Appendix,-

(i) against Serial No. 5 in Column No. 5, after the words and comma "Assistant Directors." wherever accruing the words, brackets and comma "Assistant Director (Litigation)," shall be inserted, namely:

(ii) against Serial No.7, for the existing entries, the following shall be substituted, in the respective columns namely:

40

Deputy

<p>7 Assistant Director / Tehsil Population Welfare Officer / Deputy District Population Welfare Officer (Non-Technical) / Instructor (Non-Technical) and Accounts Officer.</p>	<p>(i) At least Second Class Master's Degree or four (4) years BS Degree or equivalent qualification from a recognized University in the subject of Sociology, Social Work, Anthropology, Psychology, Business Administration (MBA), Public Administration (MPA), Economics, Statistics, Political Science, Chemistry, Population Studies; or</p> <p>(ii) MBBS or equivalent qualification from a recognized University with completion of House Job Training.</p>	<p>22 to 35 years</p>	<p>(i) Fifty percent (50%) by promotion on the basis of seniority-cum-fitness, from amongst the Assistant District Population Welfare Officers, Superintendents, Private Secretaries, Admn Officers, Statistical Investigators, Monitoring and Evaluation Officers and Accountants, having at least Second Class Bachelor's Degree from a recognized University with three years' service as such, in the following manner, namely:</p> <p>(a) thirty percent (30%) from amongst the Assistant District Population Welfare Officers, Superintendents, Private Secretaries, Admn Officers, Statistical Investigators and Monitoring and Evaluation Officers:</p> <p><b>Note:</b> For the purpose of promotion, a joint seniority list of the Assistant District Population Welfare Officers, Superintendents, Private Secretaries, Admn Officers, Statistical Investigators and Monitoring and Evaluation Officers as per inter-se-seniority shall be maintained.</p> <p>(b) twenty percent (20%) from amongst the Accountants:</p> <p>Provided that if no suitable candidate is available for promotion, then by initial recruitment; and</p> <p>(ii) fifty percent (50%) by initial recruitment.</p>
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(8) after Serial No.7, the following new entries shall be inserted, in the respective columns, namely:

Deputy Demographer.

At least Second Class Master's Degree or BS Degree four (4) years or its equivalent qualification in the subject of Economics, Statistics, Demography, Population Studies, or Sociology from a recognized University.

22 - 30 years.

By initial recruitment.”:

v) against Serial No.8. in Column No.5. for the existing entries, the following shall be substituted, namely:

“By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Sister Tutor with five years service as such:  
Provided that if no suitable candidate is available for promotion, then by initial recruitment.”:

v) against Serial No.10. in Column No.3. for the existing entries, the following shall be substituted, namely:

“At least Second Class MBBS Degree or its equivalent qualification from a recognized University with Completion of House Job Training.”;

(vi) against Serial No.11D. in Column No.3. for the existing entries the following shall be substituted, namely:

“(i) at least Second Class LLB or BS Law (five years) Degree from a recognized University with practicing Lawyer license from the Bar Council; and  
(ii) one year standing experience at the Bar.”:

(vii) against Serial No.18AA, in Column No.3, for the existing entries, the following shall be substituted, namely:

"At least Second Class Master Degree or four (04) years BS Degree in Information Technology or Computer Science or its equivalent qualification from a recognized University.";

(viii) against Serial No.26, for the existing entries, the following shall be substituted, in the respective columns namely:

(i) at least Second Class B.Sc. Nursing (four years) Degree duly registered with Pakistan Nursing Council; or (ii) at least Second Division General Nursing Diploma three years and one year Midwifery or in lieu of Midwifery one year specialized post basic Diploma duly registered with Pakistan Nursing Council.	21 -35 Years.	By initial recruitment.
--	------------------	-------------------------

(ix) against Serial No.27, in Column No.5, for the existing entries, the following shall be substituted, namely:

"(i) thirty percent (30%) by promotion, on the basis of seniority-cum-fitness, from amongst the Family Welfare Assistants (Female), Aya's, Helper and Dais with three years service as such, who has successfully completed Family Welfare Worker Training from Regional Training Institutes or B.Sc. Nursing Degree duly registered with Pakistan Nursing Council or having Lady Health Visitor Training course from the Government Public Health School:

Note: For the purpose of promotion, joint seniority list of the Family Welfare Assistants (Female), Aya's, Helpers and Dais, shall be maintained:

Provided that if no suitable candidate is available for promotion, then by Initial recruitment; and

(ii) seventy percent (70%) by initial recruitment.";

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against Serial No.28, in Column No.3, for the existing entries, the following shall be substituted, namely:

- (i) at least Second Division Secondary School Certificate with Science from a recognized Board; and
- (ii) at least Second Division two (2) years Diploma in the field of Surgical Technology from the Khyber Pakhtunkhwa Medical Faculty (Faculty of Paramedical and Allied Health Sciences) or two (2) years Diploma in the field of Surgical Technology from any recognized Institute registered with the Khyber Pakhtunkhwa Medical Faculty (Faculty of Paramedical and Allied Health Sciences).";

against Serial No.29, in Column No.3, for the existing entries, the following shall be substituted, namely:

- (i) at least Second Division Secondary School Certificate with Science from a recognized Board; and
- (ii) at least Second Division two (2) years Diploma in the field of Surgical Technology from the Khyber Pakhtunkhwa Medical Faculty (Faculty of Paramedical and Allied Health Sciences) or two (2) years Diploma in the field of Surgical Technology from any recognized Institute registered with the Khyber Pakhtunkhwa Medical Faculty (Faculty of Paramedical and Allied Health Sciences).";

against Serial No.31, in Column No.3, for the existing entries, the following shall be substituted, namely:

At least Second Class Bachelor's Degree or its equivalent qualification from a recognized University with Diploma in Computer or Information Technology from the Board of Technical Education.";

against Serial No.32, for the existing entries, the following shall be substituted, in the respective columns namely:

\*23

Senior Clerk.

(i) At least Second Division Intermediate School Certificate or its equivalent qualification from a recognized Board; and

(ii) a speed of thirty (30) words per minute in typing.

18-30 years.

(i) Forty percent (40%) by promotion, on the basis of seniority-cum-fitness, from amongst the Naib Qasids, Chowkidars, Duplicating Machine Operator, Aya's, Helpers, Dais, Malis, Cooks, Sweepers, Sweepress, Drivers and other equivalent posts, with two years' service as such who have passed Intermediate examination with second division or its equivalent qualification from a recognized Board.

(ii) sixty percent (60%) by initial recruitment.

Note: For the purpose of promotion a joint seniority list shall be mentioned of the Naib Qasids, Chowkidars, Duplicating Machine Operators, Aya's, Helpers, Dais, Malis, Cooks, Sweepers, Sweepress, Drivers and other equivalent posts with reference to dates of their acquiring the Intermediate Certificate or its equivalent qualification from a recognized Board:

Provided that,-

- (a) if two or more officials have acquired the Intermediate Certificate or its equivalent qualification in the same session, the inter-se-seniority in the lower post shall be maintained for the purpose of determining seniority in the higher post;
- (b) where a senior official does not possess the requisite qualification at the time of filling up a vacancy the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or officials:

Provided further that the condition of Intermediate Certificate or its equivalent qualification from a recognized Board as laid down at clause (i) shall not apply for a period of four years from the date of commencement of this Notification to the existing matriculate incumbents of the post of Naib Qasids, Chowkidars, Duplicating Machine Operators, Aya's, Helpers, Dais, Malis, Cooks, Sweepers, Sweepress and Drivers for promotion to the post of Junior Clerk:

Provided also that if no suitable candidate is available for promotion, then by initial recruitment."

45

against Serial No.37, in Column No.2, for the existing entries, the following shall be substituted, namely:

"Naib Qasid Chowkidar"; and

(vi) against Serial No.41, in Column No.3, for the existing entries, the following shall be substituted, namely:

(i) Primary Pass; and

(ii) two (2) years reliable experience."

Sdxxx  
SECRETARY TO  
GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
POPULATION WELFARE DEPARTMENT

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Subject:

**MINUTES OF THE SSRC MEETING HELD ON 26-12-2019 REGARDING  
AMENDMENTS IN THE PHE DEPARTMENT'S (RECRUITMENT &  
APPOINTMENT) RULES 2010.**

A meeting of the Standing Service Rules Committee (SSRC) was held on 26-12-2019 at 1400 hours under the chairmanship of Secretary PHE Department at his office, to discuss the proposed amendments in the PHE Department's (Recruitment & Appointment) Rules, 2010.

2. The following attended the meeting:-

1. Engr. Bahramand Khan, Secretary PHE Department In-chair
2. Engr. Nemat Ullah Khan, Chief Engineer (South) PHED Member
3. Mr. Muhammad Abbas, Deputy Secretary (Admn), PHED Member/Secretary
4. Mr. Fazal Hussain, Deputy Secretary (Reg-I), Finance Department Member
5. Muhammad Salim Shah, Section Officer (Reg-V), Establishment Department Member

3. The chairman welcomed the participants and explained the agenda for amendments in the PHE Department's existing Service Rules, notified earlier on 06-03-2010.

4. The following agenda items were discussed and decisions made accordingly:

1. **AMENDMENTS IN THE EXISTING SERVICE RULES REGARDING EXEMPTION FROM SENIOR MANAGEMENT COURSE (SMC) FOR PROMOTION OF SUPERINTENDING ENGINEER (BPS-19) TO THE POST OF CHIEF ENGINEER (BPS-20) PHED:**

The SSRC was informed that the Establishment Department, vide notification No.SO(Policy)E&AD/1-16/2018 dated 14-11-2018, has continued the exemption already extended to professional and technical cadres as the professionals and technocrats undertake their specialized training separately. Thus, the department proposed amendments in its existing Service Rules.

The representative of Establishment Department advised to defer the proposal at the moment as there is no separate specialized training for the professional and technical cadres. After detailed discussion, the forum agreed to defer the proposal at this stage.

2. **CHANGE IN EXISTING SERVICE RULES OF ASSISTANT ENGINEERS/ ASSISTANT DESIGN ENGINEERS/SUB DIVISIONAL OFFICERS (BPS-17):**

The forum was informed that the Department has proposed 1% reserved quota for promotion of Sub Engineers who possessed degree of B.E Electronics (Engg) with at least 2<sup>nd</sup> division from a recognized university with five years' service as such, by deducting the said quota from 5% reserved quota of In-Service Graduate Sub Engineers.



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The representative of Establishment Department observed that a separate quota may not be specified in the instant case and advised that the qualification of B.E Electronics (Engg) may be included in the existing 5% reserved quota of the In-service Graduate Sub Engineers to the post of Assistant Engineer/Assistant Design Engineer/Sub Divisional Officer (BS-17) in PHED.

After thorough discussion, the forum agreed to the advice of the representative of Establishment Department.

3. CHANGE IN EXISTING SERVICE RULES OF SUB ENGINEERS (BS-12):

The Chief Engineer (South) PHED informed the SSRC that 5% reserved quota for promotion of Tracers having second class Diploma of Associate Engineering to the post of Sub Engineer is not advisable and hence the Department proposed that the said reserved quota may be deleted and it will be added to other categories such as Draftsman and initial recruitment having DAE in Civil Technology as under:

- (a) "One percent by promotion, on the basis of seniority-cum-fitness from amongst the Work Superintendents with five years' service as such, having at least Second Class Diploma of Associate Engineering in Civil, Electrical, Electronics, Mechanical Technology from a recognized Board of Technical Education;

Note: For the purpose of promotion the seniority of Work Superintendents shall be reckoned from the date of their regular appointment as Work Superintendent.

- (b) five percent by promotion/transfer, from amongst the Draftsman with at least five years' service as such, having at least Second Class Diploma of Associate Engineering in Civil Technology from a recognized Board of Technical Education;
- (c) eighty-eight percent by initial recruitment having at least Second Class Diploma of Associate Engineering in Civil Technology from a recognized Board of Technical Education;
- (d) three percent by initial recruitment having at least Second Class Diploma of Associate Engineering in (Electrical, Electronics) Technology from a recognized Board of Technical Education; and
- (e) three percent by initial recruitment having at least Second Class Diploma of Associate Engineering in (Mechanical) Technology from a recognized Board of Technical Education."

After thorough discussion, the forum agreed to the above-mentioned proposal.

4. AMENDMENTS IN THE EXISTING SERVICE RULES OF JUNIOR CLERK PHED:

The SSRC was informed that the Establishment Department, vide notification No.SOE-IV(E&AD)/1-35/2014 dated 18-07-2019, has notified the minimum qualification of F.A/F.Sc with second division or equivalent qualification from a recognized Board, for initial appointment as well as promotion of class-IV employees to the post of Junior Clerk. Hence the Department submitted the following proposals for amendment in the existing service rules of Junior Clerk:-

- (a) Thirty-three percent by promotion, on the basis of seniority-cum-fitness from amongst the Daftaris, Record Lifters, Daffadars, Barkandazs, Naib Qasids and Chowkidars who have passed F.A/F.Sc Examination or its equivalent qualification from a recognized Board with at least two years' service as such; and

(b) six/seven percent by initial recruitment

Note: For the purpose of promotion, there shall be maintained a joint seniority list of Daftaris, Record Lifters, Daffadars, Barkandazs, Nalb Qasids and Chowkidars with reference to the date of their acquiring the F.A/F.Sc or equivalent qualification.

Provided that:

- (i) If two or more officials have acquired the F.A/F.Sc or equivalent qualification in the same session, the Inter-se-seniority in the lower post shall be maintained for the purpose of determining seniority in the higher post;
- (ii) where a senior official does not possess the requisite qualification at the time of filling up a vacancy the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official."

The representative of Establishment Department advised that on the analogy of Establishment Department, further provision that the condition of F.A/F.Sc or its equivalent qualification from a recognized board as laid down at clause (a) above shall not apply for a period of four years from the date of issuance of amendment's notification to the existing matriculate incumbents of Daftaris, Record Lifters, Daffadars, Barkandazs, Nalb Qasids and Chowkidars including holders of the equivalent posts for promotion to the post of Junior Clerk (BS-11), may also be included in the amendments.


After detailed consideration, the forum agreed to the proposed amendments alongwith advice of representative of the Establishment Department.


**Non-agenda Item:**

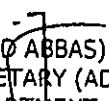
5. **AMENDMENTS IN THE EXISTING SERVICE RULES OF BUDGET & ACCOUNTS OFFICER/ADMINISTRATIVE OFFICER:**


The SSRC was informed that according to existing service rules of the Department, the post of Budget & Accounts Officer/Administrative Officer is to be filled in by promotion, on the basis of seniority-cum-fitness, from amongst the Superintendents with at least five years' service as such. The Department proposed that the required length of 05-years' service may be curtailed to 03-years as the posts of Superintendent, Budget & Accounts Officer/Administrative Officer are in the same Basic Pay Scale i.e. BPS-17. The forum agreed to the proposal.


5. The chairman, appreciated efforts and cooperation extended by the participants for streamlining the service rules. The meeting ended with a note of thanks from the chair.

  
(MUHAMMAD SALIM SHAH) 03/11/2020  
SECTION OFFICER (R-V)  
E&A DEPARTMENT  
( MEMBER )

  
(FAZAL HUSSAIN) 6/11/2020  
DEPUTY SECRETARY (Reg-1)  
FINANCE DEPARTMENT  
( MEMBER )

  
(MUHAMMAD ABBAS)  
DEPUTY SECRETARY (ADMN)  
PHE DEPARTMENT  
(MEMBER/SECRETARY)

  
(ENGR. NEMAT ULLAH KHAN)  
CHIEF ENGINEER (SOUTH)  
PHE DEPARTMENT  
( MEMBER )

  
(ENGR. BAHRAMAND KHAN) 01/2020  
SECRETARY  
PHE DEPARTMENT  
(CHAIRMAN)



## NOTIFICATION

**No.SO(Estt)/PHED/1-9/2019-20:** In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Public Health Engineering Department, in consultation with the Establishment Department and Finance Department, hereby directs that in this Department's Notification No.SO(Estt)/PHED/1-9/2010, dated 06-03-2010, the following further amendments shall be made, namely:

### AMENDMENTS

In the APPENDIX:-

(1) Under the heading "Engineering Cadre":

- (i) against Serial No.4, in Column No.5 in clause (b), after the brackets and word "(Civil)", the oblique and word "/Electronics" shall be inserted; and
- (ii) against Serial No.5, in Column No.3 and 5 for the existing entries the following shall respectively be substituted namely;

3	5
(a) At least Second Division Diploma of Associate Engineering in Civil Technology, from a recognized Board of Technical Education; or	(a) Five Percent, by promotion, on the basis of seniority-cum-fitness, from amongst the Draftsmen having qualification mentioned in clause (a) of Column No.3 with five years service as such;
(b) At least Second Division Diploma of Associate Engineering in Mechanical Technology, from a recognized Board of Technical Education; or	(b) one percent, by promotion, on the basis of seniority-cum-fitness from amongst the Works Superintendents, having any of the qualification prescribed for initial recruitment in Column No.3, with five years' service as such;
(c) At least Second Division Diploma of Associate Engineering in Electrical or Electronics Technology, from a recognized Board of Technical Education.	(c) eighty-eight percent by initial recruitment having qualification reflected at clause (a) of Column No.3;
	(d) three percent by initial recruitment having qualification reflected at clause (b) of Column No.3;
	(e) three percent by initial recruitment having qualification reflected at clause (c) of Column No.3;
	Note: For the purpose of promotion the seniority of Works Superintendents shall be reckoned from the date of their regular appointment as Works Superintendent.

*[Handwritten signature]*

(2) Under the heading "Ministerial Establishment",

- (i) against Serial No.6, in column No.5, for the words "five years", the words "three years" shall be substituted; and

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(ii) against serial No.13, for the existing entries, the following shall be substituted, namely:-

1	2	3	4	5
13	Junior Clerk	(a) At least second division Intermediate Certificate or its equivalent qualification from a recognized Board; and  (b) a speed of thirty (30) words per minute in English typing."	18 to 30 years	(a) Thirty-three percent by promotion, on the basis of seniority-cum-fitness from amongst the Daftaris, Record Lifters, Barkandazs, Daffadars, Naib Qasids and Chowkidars including holder of equivalent posts who possess at least second division Intermediate Certificate or its equivalent qualification from a recognized Board with at least two years' service as such; and  (b) sixty-seven percent by initial recruitment  Note: For the purpose of promotion, there shall be maintained a common seniority list of Daftaris, Daffadars, Record Lifters, Barkandazs, Naib Qasids and Chowkidars including holder of equivalent posts with reference to the date of their acquiring the Intermediate Certificate or its equivalent qualification from a recognized Board.  Provided that:  (a) if two or more officials have acquired the Intermediate Certificate or its equivalent qualification in the same session, the inter-seniority in the lower post shall be maintained for the purpose of determining seniority in the higher post; and  (b) where a senior official does not possess the requisite qualification at the time of filling up a vacancy the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official.  Provided further that the condition of Intermediate Certificate or its equivalent qualification from a recognized Board as laid down at clause (a) above shall not apply till the expiration of a period specified in the Establishment Department Notification No.SOE-IV/(E&AD)/1-35/2014 dated 18 <sup>th</sup> July, 2019 to the existing matriculate incumbents of the posts of Daftaris, Record Lifters, Daffadars, Barkandazs, Naib Qasids and Chowkidars for promotion to the post of Junior Clerk."

SECRETARY TO  
GOVT. OF KHYBER PAKHTUNKHWA  
PUBLIC HEALTH ENGG. DEPARTMENT

No.SO(Estt)/PHED/1-9/2019-20:

Dated Peshawar, the 14 / 12 / 2020.

Copy forwarded to the:-

- 1) All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
- 2) Secretary to Governor Khyber Pakhtunkhwa.
- 3) Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
- 4) Accountant General Khyber Pakhtunkhwa.
- 5) Chief Engineer (North/South/Merged Areas/SRU) PHE Khyber Pakhtunkhwa Peshawar.
- 6) Secretary Public Service Commission Khyber Pakhtunkhwa Peshawar
- 7) Registrar Peshawar High Court / Service Tribunal Peshawar.
- 8) All SuperIntending Engineers PHE / XENs PHE Department Khyber Pakhtunkhwa.
- 9) Manager Government Stationary & Printing Department.
- 10) PS to Chief Secretary Khyber Pakhtunkhwa Province.
- 11) PS to Secretary PHE Department Khyber Pakhtunkhwa Peshawar
- 12) Office Order File.

o/c  
SECTION OFFICER (ESTT)  
14/12/2020

Subject:

**MINUTES OF THE SSRC MEETING HELD ON 16-12-2021 REGARDING AMENDMENTS/INCLUSIONS IN PHE DEPARTMENT'S (RECRUITMENT & APPOINTMENT) RULES 2010.**

A meeting of the Standing Service Rules Committee (SSRC) was held on 16-12-2021 at 1400 hours under the chairmanship of Secretary PHE Department at his office, to discuss the proposed amendments in the PHE Department's (Recruitment & Appointment) Rules, 2010.

2. The following attended the meeting:-

1. Mr. Muhammad Idrees Khan, Secretary PHE Department In-chair
2. Engr. Gul Shahid Khan, Chief Engineer (Center) PHE Member
3. Mr. Saeed Ullah, Additional Secretary, Establishment Department, Peshawar Member
4. Mr. Muhammad Ilyas Khattak, Section Officer (SR-II), Finance Department Member
5. Mr. Ghani Rehman, Section Officer (Estt), PHED Member/Secretary

3. The chairman welcomed the participants and explained the agenda for amendments in the PHE Department's existing Service Rules, notified earlier on 06-03-2010.

4. The following agenda items were discussed and decisions made accordingly:

Item No. i **AMENDMENTS IN THE EXISTING SERVICE RULES OF PHE DEPARTMENT REGARDING ENHANCEMENT OF RESERVED QUOTA FOR PROMOTION OF B. TECH (HONS) DEGREE HOLDER SUB ENGINEERS TO THE POST OF ASSISTANT ENGINEER (BPS-17).**

5. The SSRC was informed that according to existing Service Rules of PHE Department (**Annex-I**), 3% quota is reserved for promotion of B. Tech (Hons) Degree holder Sub Engineers to the post of Assistant Engineer/SDO (BPS-17), which is very limited and creates a big gap between the cadres of Sub Engineer and SDO, consequently many Sub Engineers appointed in BPS-12 retire in the same grade. Thus, B. Tech (Hons) Degree holder Sub Engineers have submitted a joint application (**Annex-II**) requesting therein for enhancement of reserved quota for promotion of B.Tech (Hons) Degree holder Sub Engineers to the post of Assistant Engineer/SDO (BPS-17) from 3% to 10% on the analogy of C&W and Irrigation Departments as the C&W and Irrigation Departments have reserved 10% and 8% quota respectively for promotion of B.Tech (Hons) Degree holder Sub Engineers to the post of Assistant Engineer/SDO (BPS-17) on regular basis. They have further added that the Peshawar High Court Peshawar, vide judgment dated 22-09-2021 (**Annex-III**), has directed the respondents to allow in the selection process for the posts of Sub Engineers only those candidates who possessed with the qualification of Diploma in Associate Engg: (Civil).

The SSRC was further informed that 5% quota is reserved each for promotion of In-Service Graduate Sub Engineers (BPS-12) and Direct Graduate Sub Engineers (BPS-12) to the post of Assistant Engineer/Assistant Design Engineer/SDO (BPS-17) in PHED. However, at present, there is no In-Service Graduate Sub Engineer (BPS-12) in the Deptt who fulfils the requirements of promotion to BPS-17 and hence it is proposed that the reserved share quota of In-Service Graduate Sub Engineers and Direct Graduate Sub Engineers (BPS-12) may be reduced from 5% to 3% & 5% to 2% respectively and the reserved share quota of B.Tech Degree holder Sub Engineers may be enhanced from 3% to 8%. The representative of Establishment Department advised that the seniority of B.Tech (Hons) Degree holder Sub Engineers for promotion to the post of Assistant Engineer/SDO (BPS-17) shall be reckoned from the dated of acquiring relevant Degree. After detailed discussion, the forum unanimously agreed to enhance the quota of B.Tech (Hons) Degree holder Sub Engineers to the post of Assistant Engineer/SDO (BPS-17) from 3% to 8%. 52

Item No. ii **AMENDMENTS IN THE EXISTING SERVICE RULES OF PHE DEPARTMENT FOR PROMOTION OF ASSISTANT ENGINEERS (BPS-17) TO THE POST OF EXECUTIVE ENGINEER/DESIGN ENGINEER (BPS-18).**

7. The SSRC was informed that B. Tech (Hons)/Diploma holder Assistant Engineers (BPS-17) PHED have submitted a joint application for reservation of 20% quota for their promotion from BPS-17 to BPS-18 in light of the Supreme Court of Pakistan judgment dated 03-10-2018 in C.P No.78-K case titled Maula Bux Versus Government of Sindh as well as on the analogy of Sindh Province and other Ministries/Departments of the Federal Government, as the existing service rules does not allow them to be promoted to the post of Executive Engineer (BPS-18).
8. According to existing Service Rules of PHE Department, the method of recruitment to the post of Executive Engineers/Design Engineers/Technical Officers/Deputy Director Technical/Deputy Director M&E/Deputy Director Labs/Projects (BPS-18) is "By promotion on the basis seniority-cum-fitness from amongst the Assistant Engineers/Assistant Design Engineers/Sub Divisional Officers/Assistant Director (Tech)/Assistant Technical Officer/Assistant Director (M&E)/Assistant Director (Labs)/Assistant Director (Projects), possessing Degree in B.E/B.Sc Engg (Civil) from a recognized University with five years' service as such."
9. The case was taken up with Establishment Department (**Annex-IV**) which was returned with the advice that it is the mandate of the Administrative Department to frame rules to streamline and strengthen service requirements of the departments and employees under the APT Rules, 1989. If the department intends to hold meeting of the Standing Service Rules Committee, Establishment Department will assist and add the Administrative Department within the legal framework.
10. In view of the above, the PHE Department proposed that the B.E/B.Sc (Civil) Degree holder Assistant Engineers/Assistant Design Engineers/Sub Divisional Officers/Assistant Director (Tech)/Assistant Technical Officer/Assistant Director (M&E)/Assistant Director (Labs)/Assistant Director (Projects) may be promoted to the posts of Executive Engineers/Design Engineers/Deputy Director Technical/Deputy Director Labs/Projects (BPS-18) whereas B. Tech (Hons)/Diploma holder Assistant Engineers (BPS-17) PHED may be promoted against the posts of Technical Officers/Deputy Director M&E (BPS-18).

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representative of Establishment Department advised that a joint seniority of B.Tech (ons) and Diploma holder Assistant Engineers/SDOs (BPS-17) shall be maintained for promotion to the posts of Technical Officers/Deputy Director M&E (BPS-18). The representative of Establishment Department further informed that a high level committee has already been constituted under the chairmanship of Additional Chief Secretary P&D Department. Therefore, the instant development/amendment may be brought into the notice of the said committee. **After thorough discussion, the forum agreed to the proposal of the Department.**

Item No. iii AMENDMENTS IN THE EXISTING SERVICE RULES OF PHE DEPARTMENT WATER TESTING LABORATORY POSTS.


11. The SSRC was informed that in order to ensure the provision of safe drinking water to the general public, the Public Health Engg: Department intends to revisit and suggest certain amendments in Service Rules for the posts of PHE Water Testing Laboratory. The forum was informed that according to existing service rules of PHE Department, the method of recruitment to the post of Senior Research Officer (Water Quality) is "By promotion, on the basis of seniority-cum-fitness, from amongst the members of service holding the post of Research Officer (Water Quality) and Research Officer (Hydro-geologists) with seven years service as such". The PHE Department proposed that the post of Senior Research Officer (Water Quality) may be filled in "by promotion, on the basis of seniority-cum-fitness, from amongst the members of service holding the post of Research Officer (Water Quality) with five years' service as such" and for promotion of Research Officer (Hydro-geologists), the Department will take up the case with Finance Department for creation of posts in their relevant cadre. The forum agreed to the proposal.

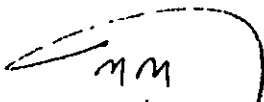
12. The Committee was further informed that according to existing service rules of the Department, the method of recruitment against the post of Assistant Research Officer (Water Quality) is by initial recruitment. However, the PHE Department proposed that (i) 25% posts of Assistant Research Officer (Water Quality) may be filled in by way of promotion, on the basis of seniority-cum-fitness, from amongst the members of service holding the post of Lab Assistant possessing prescribed qualification of Second Division B.Sc (Microbiology or Chemistry) from a recognized University with 5-years service as such and (ii) 75% posts of Assistant Research Officer (Water Quality) may be filled through initial recruitment. **The SSRC agreed to the proposal.**


13. The SSRC was also informed that according to existing service rules of the Department, the method of recruitment against the post of Lab Technicians by initial recruitment. However, the PHE Department proposed that (i) 50% posts of Lab Technician may be filled in by way of promotion, on the basis of seniority-cum-fitness, from amongst the members of service holding the post of Lab Attendant possessing prescribed qualification of at least Second Class Secondary School Certificate or equivalent qualification from a recognized Board with two years Diploma in Laboratory technician from a recognized Medical Faculty, with 5-years service as such and (ii) 50% posts of Lab Technician may be filled through initial recruitment. **The forum agreed to the proposal.**


The forum was informed that the posts of Lab Assistant exists on the strength of the Department, however, no service rules for the said post have been framed so far. Hence, the PHE Department proposed that (i) 25% posts of Lab Assistant may be filled in by way of promotion, on the basis of seniority-cum-fitness, from amongst the members of service holding the post of Lab Technician possessing prescribed qualification of at least second class Secondary School Certificate or equivalent qualification from a recognized Board with two years Diploma in Laboratory technician from a recognized Medical Faculty, with 5-years service as such and (ii) 75% posts of Lab Assistant may be filled through initial recruitment. **The SSRC agreed to the proposal.**

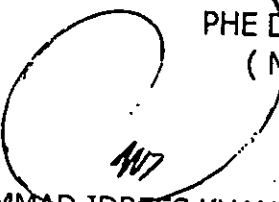
15. The chairman, appreciated efforts and cooperation extended by the participants for streamlining the service rules. The meeting ended with a note of thanks from the chair.

  
(SAEED ULLAH)  
ADDITIONAL SECRETARY (REG:)  
E&A DEPARTMENT  
( MEMBER )

  
(MUHAMMAD ILYAS KHATTAK)  
SECTION OFFICER (SR-II)  
FINANCE DEPARTMENT  
( MEMBER )

  
(GHANI REHMAN)  
SECTION OFFICER (ESTTT)  
PHE DEPARTMENT  
(MEMBER/SECRETARY)

  
(ENGR. GUL SHAHID KHAN)  
CHIEF ENGINEER (CENTER)  
PHE DEPARTMENT  
( MEMBER )

  
( MUHAMMAD-IDREES KHAN )  
SECRETARY  
PHE DEPARTMENT  
(CHAIRMAN)





**KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, MONDAY, 07<sup>th</sup> FEBRUARY, 2022

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
PUBLIC HEALTH ENGINEERING DEPARTMENT**

**NOTIFICATION**

Dated Peshawar, the 31<sup>st</sup> January, 2022.

**No.SO(Estt)/PHED/1-9/2020-21:** In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Public Health Engineering Department, in consultation with the Establishment Department and Finance Department, hereby directs that in this Department's Notification No.SO(Estt)/PHED/1-9/2010, dated 06-03-2010, the following further amendments shall be made, namely:

**AMENDMENTS**

In the APPENDIX:-

- (1) Under the heading "Engineering Cadre":
- (i) against Serial No.03, in Colum No.02, for the existing entry, the following shall be substituted, namely:

"Executive Engineer/Design Engineer/Deputy Director (Technical)/Deputy Director (Labs/Projects) (BPS-18)

- (ii) after Serial No.03, the following new entries shall be inserted in the respective Columns, namely:

3-A	Technical Officer/Deputy Director (M&E) (BPS-18)	"By promotion, on the basis of seniority-cum-fitness from amongst the holders of the posts of Assistant Engineers/Assistant Design Engineers/ Sub Divisional Officers/Assistant Director (Tech)/ Assistant Technical Officer/Assistant Director (M&E)/Assistant Director (Labs)/Assistant Director (Projects), who possesses Degree of B.Tech (Hons) or Diploma of Associate Engineering from a recognized University/ Board with five years' service as such."
		<b>Note:</b> For the purpose of promotion, joint seniority of B.Tech (Hons) & Diploma holders shall be reckoned from the date of promotion to BPS-17.

- (ii) against serial No.04, in column No.05,
- (a) in clause (a), for the words "Five percent", the words "Two percent" shall be substituted;
  - (b) in clause (b), for the words "Five percent", the words "Three percent" shall be substituted;
  - (c) in clause (c), for the words "Three percent", the words "Eight percent" shall be substituted; and
  - (d) after clause (c), as so amended, the following Note shall be inserted; namely:

"Note: for the purpose of promotion, the seniority of B.Tech (Hons) Degree holders shall be reckoned from the date of appointment or acquiring the Degree, whichever is later; and

(2) Under the heading "Water Quality (WQ) Laboratory's Technical Staff":

- (i) against Serial No.26, in column No.05, for the existing entry, the following shall be substituted, namely:

"By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Research Officer (Water Quality) with five years service as such."

- (ii) against Serial No.28, in column No.05, for the existing entry, the following shall be substituted, namely:

- (a) Twenty-five percent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Laboratory Assistant who possess at least second class B.Sc Degree in Microbiology or Chemistry from a recognized University, with 5-years service as such; and
- (b) Seventy-five percent by initial recruitment.

- (iii) after Serial No.28, the following new entries shall be inserted, in the respective Columns, namely;

28-A	Laboratory Assistant (BPS-08)	At least Second Division Secondary School Certificate or its equivalent qualification from a recognized Board with two years Diploma in Laboratory Technician from a recognized Medical Faculty.	18 to 30 years	<ul style="list-style-type: none"> <li>(a) Twenty-five percent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Laboratory Technician with 5-years service as such.</li> <li>(b) Seventy-five percent by initial recruitment; and</li> </ul>
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(iv) Against Serial No:29, in Column No.05, for the existing entry, the following shall be substituted namely:

- (a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Laboratory Attendant who possess at least Second Division Secondary School Certificate or its equivalent qualification from a recognized Board and two years Diploma in Laboratory Technician from a recognized Medical Faculty, with 5-years service as such; and
- (b) Fifty percent by Initial recruitment.

SECRETARY TO  
GOVT: OF KHYBER PAKHTUNKHWA  
PUBLIC HEALTH ENGG: DEPARTMENT

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**MINUTES OF THE SSRC MEETING HELD ON 09.06.2021 REGARDING  
AMENDMENTS IN THE EXISTING SERVICE RULES, 2010 OF C&W DEPARTMENT**

A meeting of the SSRC was held on 09.06.2021 at 1100 hours under the chairmanship of Secretary Communication & Works Department. The following attended the meeting:

- |   |      |                      |
|---|------|----------------------|
| 1. Engr Ejaz Hussain Ansari,<br>Secretary C&W   | ---- | In Chair             |
| 2. Engr. Muhammad Uzair<br>Chief Engineer (Centre) C&W  | ---  | Member               |
| 3. Mr. Muhammad Ilyas<br>Section Officer (SR-II)<br>Finance Department<br>(Representative of FD)            | ---  | Member               |
| 4. Mr. Muhammad Jamshid<br>Deputy Secretary (Reg-III)<br>Establishment Department<br>(Representative of ED) | ---  | Member               |
| 5. Muhammad Taufique<br>Deputy Secretary (Admin)<br>C&W Department  | ---  | Member-cum-Secretary |

Reg: V Section E&A.

2. The chair welcomed all the participants and discussed the following agenda items one by one, and made recommendations:-

**Item-No. 1: AMENDMENTS IN THE EXISTING SERVICE RULES, 2010 OF C&W DEPARTMENT FOR THE POST OF JUNIOR CLERK**

The forum was briefed about the existing Service Rules of the post of Junior Clerk in C&W Department which is Secondary School Certificate with a speed of 30 words per minutes in English typing, age limit is 18-28 and quota to the post of Junior Clerk from the lower cadre (Daftris, record lifter, Naib Qasids, Chowkidar and other equivalent posts) possessing Secondary School Certificate (SSC) having at least two years service in the Department.

Sequel to the up-gradation of the post of Junior Clerk from BPS-7 to BPS-11, the Establishment Department has enhanced the required qualification from SSC to FA/FSc second division or equivalent qualification. Moreover, the age limit for this post in the Service Rules of Establishment Department is 18-30 whereas, in C&W is 18-28.

**DECISION:** After thorough discussion, the forum unanimously agreed to enhance the required qualification for the post of Junior Clerk from SSC to FA/FSc second division or equivalent qualification along with a certificate in MS Office, from any institute recognized by concerned board. The forum further agreed to enhance the age limit for the post of Junior Clerk from 18-28 to 18-30, with a note that the condition of FA/FSc shall not apply for a period of four years from the date of commencement of notification to this effect to existing matriculate incumbents for promotion to the post of Junior Clerk.

**Item-No. 2. AMENDMENTS IN THE EXISTING SERVICE RULES, 2010 OF C&W DEPARTMENT REGARDING WITHDRAWAL / CANCELLATION THE AMENDMENT VIDE NOTIFICATION DATED 14.10.2014 AND CRITERIA FOR FIXING SENIORITY ON THE BASIS OF DATE OF ACQUIRING DEGREE BESIDE ELIMINATION THE TIME LIMIT OF 05 YEARS FOR PROMOTION TO THE RANK OF ASSISTANT ENGINEER /SDO (BS-17)**

As per existing Service Rules notified on 14.10.2014, the seniority of in-service graduate to the post of Assistant Engineer / SDO (BPS-17) is determined on the basis of initial recruitment. Some of the concerned officials made a representation to the department that the instant provision may be cancelled / withdrawn and restore the determination of seniority on the

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basis of acquiring degree. They have further requested to reduce the length of service (5 years) for promotion to Assistant Engineer / SDO (BPS-17). The same was referred to concerned Chief Engineer for examination. The Chief Engineer concerned recommended to reconsider the existing provision referring at par with sister department in the province like Irrigation Department.

**DECISION:** The forum after threadbare discussion, unanimously recommended to determine the seniority of In-service graduate Sub-Engineer for the purpose of promotion to the rank of Assistant Engineer / SDO (BPS-17) from the date of the attaining degree in BE/BSC (Civil / Mechanical / Electrical from recognized university). The forum further recommended to reduce the length of service of direct graduate /In-service graduate Sub-Engineers from 5 years to 3 years for promotion to the rank of Assistant Engineer / SDO (BPS-17).

**Item-No. III: AMENDMENTS IN THE EXISTING SERVICE RULES, 2010 OF C&W DEPARTMENT (ARCHITECTURAL WING)**

The forum was briefed about the existing Service Rules of the post of Senior Architectural Draftsman / Senior Computer Aided Design (CAD) Operator and Junior Architect Draftsman/Junior Computer Aided Design (CAD) Operator in C&W Department. In the referred case, the Principal Consulting Architect C&W Department has forwarded proposal with regard to amendment in the existing qualification as well as in the existing method of recruitment of the referred posts.

Moreover, Principal Consulting Architect C&W Peshawar has also submitted proposal with regard to insertion of method for filling the newly created posts i.e. AutoCAD Assistant and 3Ds' Assistant in the existing service rules of C&W Department, 2010.

**DECISION:** After thorough discussion, the forum unanimously recommended that:

Nomenclature of Post	Existing Minimum Qualification	Proposed Minimum Qualification	Existing Method of appointment	Proposed Method of appointment
Senior Architectural Draftsman Senior Computer Aided Design (CAD) Operator (BPS-14)	<p>Three years Diploma in Architectural Technology from recognized Institute/ Board of technical Education with AutoCAD knowledge;</p> <p>OR</p> <p>Two years Certificate Course in Civil Draftsmanship from a recognized Institute/Board of Technical Education with AutoCAD knowledge</p>	<p>a. Three Years Diploma in Architectural Technology from recognized institute/Board of Technical Education with AutoCAD, 2-D, 3-D, 3D Studio MAX, Adobe Photoshop, Power Point knowledge and production of quality work</p> <p>OR</p> <p>b. Two years Certificate course in Civil Draftsmanship from recognized Institute/Board of Technical Education Auto CAD, 2-D, 3-D, 3D Studio MAX, Adobe Photoshop, Power Point knowledge and production of quality work</p>	<p>a. Fifty percent (50%) by Initial Recruitment; and</p> <p>b. Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the Junior Architectural Draftsman/Junior Computer Aided Design (CAD) Operator, with at least 5 (five) years service as such</p>	<p>a. fifty percent (50%) by initial recruitment</p> <p>AND</p> <p>b. Fifty percent (50%) by promotion on the basis of seniority cum-fitness amongst the Junior Architectural Draftsman/Junior Computer Aider Design (CAD) Operator with at least 3 (three) year service as such</p>

Junior Architectural Draftsman / Junior Computer Aided Design (CAD) Operator(BPS-12)	Two years Certificate Course in Civil Draftsmanship from a recognized Institute/ Board of Technical Education with AutoCAD knowledge	DAE OR two years certificate course in Civil Draftsmanship from recognized Institute/Board of Technical Education Auto CAD, 2-D, 3-D, 3-D Studio Max, Adobe Photoshop, Power Point knowledge and production of quality work	By Initial Recruitment	<p>a. Thirty three percent (33%) by initial recruitment and</p> <p>b. Sixty Seven percent (67%) by promotion on the basis of seniority -cum- fitness amongst the auto CAD Assistant &amp; 3-Ds Assistant with at least five (05) years service as such;</p> <p><b>Note:</b> For the purpose of promotion a joint seniority list of AutoCAD Assistant and 3-Ds Assistant shall be maintained</p>
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**New insertion**

Sl. No.	Nomenclature of the Post	Minimum Qualification for Appointment	Age Limit	Method of Recruitment
1	2	3	4	5
1	AutoCAD Assistant (BPS-07)	Secondary School Certificate with two years Certificate Course in Civil Draftsmanship from recognized Institute/ Board of Technical Education and Auto CAD, 2-D, Power Point knowledge and experience of work/ Architecture design drawings on AutoCAD	18-30 years	<p>By promotion, on the basis of seniority-cum-fitness, from amongst the Daftari, Survery Cooli, Naib Qasid, Chowkidars, who have Secondary School Certificate with two years Certificate Course in Civil Draftsmanship from recognized Institute/ Board of Technical Education and at least 03 (three) years service/work experience in AutoCAD 2-D, Power Point knowledge and preparing detail architectural drawings in office of Principal Consulting Architect/Central Design Office</p> <p><b>Note:</b> If no suitable candidates are available for promotion, then by Initial Recruitment</p>
2	3D Assistant (BPS-07)	Secondary School Certificate with two years Certificate Course in Civil Draftsmanship from recognized Institute/ Board of Technical Education and Auto CAD, 3-D, 3-D Studio MIX, Adobe Photoshop, Power Point knowledge and experience of work/ Architecture design drawings on AutoCAD	18-30 years	<p>By promotion, on the basis of seniority-cum-fitness, from amongst the Daftari, Survery Cooli, Naib Qasid, Chowkidars, who have Secondary School Certificate with two years Certificate Course in Civil Draftsmanship from recognized Institute/ Board of Technical Education and at least 03 (three) years service/work experience in AutoCAD 3-D, 3-D Studio MIX, Abobe Photoshop, Power Point knowledge in office of Principal Consulting Architect/Central Design Office</p> <p><b>Note:</b> If no suitable candidates are available for promotion, then by Initial Recruitment</p>

**Item-No. IV: INSERTION /ADDITION OF POSTS OF MIS/GIS IN THE EXISTING SERVICES RULES, 2010 OF COMMUNICATION & WORKS DEPARTMENT**

The Provincial Government of Khyber Pakhtunkhwa regularized the employees of the Projects including the project "Database Development, based on Electronic Tools, using MIS/GIS for C&W Department" through Khyber Pakhtunkhwa Regularization Act, 2018. Sequel to the refereed regularization, the department approached Finance Department for creation of posts for the Project Employees regularized under the ibid Act, 2018. Accordingly the Finance Department sanctioned the posts vide letter dated 25.6.2018 and 27.11.2018. Hence proper Service Rules are expedient for these posts.

Item-No. V: AMENDMENTS IN THE EXISTING SERVICE RULES, 2010 OF C&W DEPARTMENT REGARDING DELETION THE WORD i.e. "PROMOTION" FROM COLUMN-3 OF THE IBID SERVICE RULES OF C&W DEPARTMENT

The forum was apprised that in the existing Service Rules 2010 of C&W Department the word i.e. "PROMOTION" has erroneously been reflected in Column-3; rather the Law Department had vetted the said Service Rules of C&W Department without word "promotion" in Column-3; hence the same requires deletion.

**DECISION:** The forum agreed and recommended deletion of the word i.e. "PROMOTION" from Column-3 of the existing service rules of C&W Department 2010.

### ADDITIONAL AGENDA ITEMS

Item No.1 AMENDMENTS IN THE EXISTING SERVICE RULES, 2010 OF C&W DEPARTMENT FOR THE POST OF SUB-ENGINEER

The forum was apprised that before splitting the quota of (25%) into 5% & 5% to each cadre, in the past 25% quota was reserved in toto to the "Work Superintendents/Work Supervisors/Surveyors & Road Inspectors". And as such promotion had been made on whole basis and the Road Inspectors were thus promoted on regular as well as appointment on acting charge basis. In the ibid Service Rules of C&W Department 2010, the same 25% quota has been splitted into six (06) sub categories. The Department observed that the quota under Rule-5(d) remain unfilled due to non-availability of the candidates under this sub-category whereas under the Rule-5(c) sufficient number of eligible candidates are available for promotion. To cope up the situation the following proposals were recommended.

**DECISION:** The forum after threadbare discussion unanimously agreed with the following proposals.

b. Fifteen percent (15%) by promotion on the basis of seniority-cum-fitness, from amongst the Work Superintendents/Work Supervisors/Surveyors and Road Inspectors with at least five (05) years service as such, having three years Diploma in Civil/Electrical/Mechanical Technology from a recognized Board.

**Note-1** For the purpose of promotion, a joint seniority list of Work Superintendent/Work Supervisors/ Surveyors and Road Inspectors with reference to their regular appointment to the post shall be maintained and in case the two dates are similar, the official in BS-12 shall rank senior. The seniority shall be determined from the date of appointment or acquiring the Diploma whichever is later.

c. Two point five percent (2.5%) by promotion from amongst the Draftsmen with at least seven years service as such, having three years Diploma in Civil/Electrical/Mechanical Technology from a recognized Board; and

d. Two point five percent (2.5%) by promotion from amongst the Tracers, with seven years service as such; having Diploma in Civil/Electrical/Mechanical Technology from a recognized Board;

**Note-2.** (i) The Seniority shall be determined from the date of appointment or acquiring the Diploma whichever is later.

e. Five percent (5%) by promotion from amongst the Work Superintendents/ Work Supervisors & Road Inspectors, who have passed "B" Grade Departmental Examination with seven years service as such;

**Note-3** for the purpose of promotion, a joint seniority list of Work Superintendents/Work Supervisors & Road Inspectors, with reference to their regular appointment to the post shall be maintained, in case the two dates are similar, the official in BS-12 shall rank senior.

**DECISION:** The forum after threadbare discussion unanimously agreed with the following proposed Service Rules to be incorporated in the existent appoint / recruitment rules, 2010 of C&W Department. 62

**New Insertion**

Sl. No.	Nomenclature of the Post	Minimum Qualification for Appointment	Age Limit	Method of Recruitment
1	2	3	4	5
1	Assistant Director IT (BS-17)	BS Computer Science (04 years) from recognized University OR 2 <sup>nd</sup> Class Mater Degree or equivalent qualification in Computer Science from recognized University	22-35 years	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers and Computer Operators having 05 years service as such.  <b>Note:</b> If no suitable candidates are available for promotion, then by Initial Recruitment
2	Assistant Director GIS (BS-17)	2 <sup>nd</sup> Class BS (Hons) in Geometric from recognized University OR 2 <sup>nd</sup> Class Mater Degree or equivalent qualification in Geography. Physical and Numerical Science with one year GIS Diploma from recognized University	22-35 years	By promotion, on the basis of seniority-cum-fitness, from amongst the GIS Analyst, having 03 years service as such.  <b>Note:</b> If no suitable candidates are available for promotion, then by Initial Recruitment
3	Economist (BS-17)	BS in Economics (04 years) from recognized University OR 2 <sup>nd</sup> Class Mater Degree in Economic/Statistic/MBA/M-Com in Commerce from recognized University	22-35 years	By Initial Recruitment
4	Assistant Programmer (BS-16)	2 <sup>nd</sup> Class B.Sc Degree in Computer Science from recognized University OR 2 <sup>nd</sup> Class BCS Degree or equivalent qualification from the recognized University	22-30 years	By Initial Recruitment
5	Computer Operator (BS-16)	2 <sup>nd</sup> Class Bachelor Degree in Computer Science Information Technology (BCS/BIT Hons 04 years) from recognized University OR 2 <sup>nd</sup> Class Bachelor Degree from the recognized University with one year Diploma in Information Technology from recognized Board of Technical Education	22-30 years	By Initial Recruitment
6	GIS Analyst (BS-16)	2 <sup>nd</sup> Class B.A/B.Sc Degree from the recognized University with one year Diploma from recognized Institute OR 2 <sup>nd</sup> Class BS (Hons) in Geometric from recognized University	22-30 years	By promotion, on the basis of seniority-cum-fitness, from amongst the GIS Data Collector, having 03 years service as such.  <b>Note:</b> If no suitable candidates are available for promotion, then by Initial Recruitment
7	GIS Data Collector (BS-12)	2 <sup>nd</sup> Class BS (Hons) in Geometric from recognized University OR 2 <sup>nd</sup> Class B.Sc Degree from recognized University with one year Post Graduate Diploma in GIS from recognized Institute	22-30 years	By Initial Recruitment



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Item No.2. AMENDMENTS IN THE EXISTING SERVICE RULES, 2010 OF C&W DEPARTMENT FOR THE POST OF ASSISTANT

The Chief Engineer Centre C&W Peshawar has proposed that length of service (5 years) of Accounts Clerks required for promotion to Assistant (BPS-16) may be reduced to three (03) years.

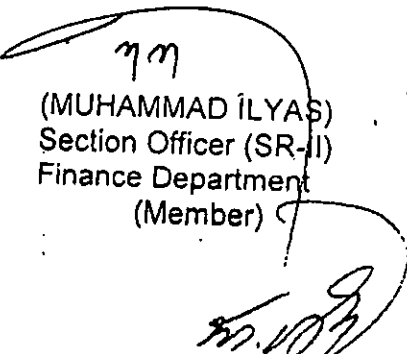
**DECISION:** The forum after threadbare discussion unanimously agreed and recommended to reduce the length of service of Accounts Clerk from 5 years to 3 years for promotion to the rank of Assistant (BPS-16).

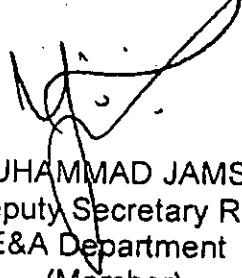
Item No.3. AMENDMENTS IN THE EXISTING SERVICE RULES, 2010 OF C&W DEPARTMENT FOR THE POST OF DAFTAR


The Chief Engineer Centre C&W Peshawar has proposed that the post of Sweeper may be inserted in colmn-5 against the post of Daftari appearing at S.No. 26 of the existing Service Rules of C&W Department, 2010 enabling the category (Sweeper) for further promotion to the rank of Daftari.

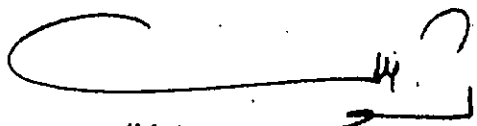
**DECISION:** The forum agreed and recommended to insert the post of Sweeper in colmn-5 against the post of Daftari appearing at S.No. 26 of the existing Service Rules of C&W Department enabling the category (Sweeper) for further promotion to the rank of Daftari


3. The chairman in the last thanked the participants and appreciated the efforts made by them.

  
(MUHAMMAD ILYAS)  
Section Officer (SR-II)  
Finance Department  
(Member)

  
(MUHAMMAD JAMSHID)  
(Deputy Secretary R-II)  
E&A Department  
(Member)

  
(ENGR MUHAMMAD UZAIR)  
Chief Engineer (Centre)  
(Member)

  
(Muhammad Taufique)  
Deputy Secretary (Admin)  
Member-cum-Secretary

  
(ENGR EJAZ HUSSAIN ANISARI)  
Secretary C&W  
(Chairman)



Dated Peshawar, Jan 26, 2022

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**NOTIFICATION:**

No.SOE/C&WD/8-12/2022: In pursuance of the provision contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Communication & Works Department, in consultation with the Establishment Department and Finance Department, hereby notify that in this Department's Notification No.SOE/C&WD/8-12/2009, dated March 25, 2010, the following further amendments shall be made, namely:

**AMENDMENTS**

In the APPENDIX,

(a) under the heading "ENGINEERING SERVICE",-

(i) in Column No. 03, in the heading, the oblique and word "/Promotion" shall be deleted;

(ii) against Serial No. 4, in Column No. 5,-

(a) in Clause (c) and (d), for the figure, brackets and words "05 (five) years", the figure, brackets and words "03 (three) years" shall be substituted; and

(b) for the existing Note, the following shall be substituted, namely:

**Note:** The seniority in all cases shall be determined from the date of Initial appointment:

Provided that for the purpose of promotion to the post of Sub Divisional Officer/Assistant Engineer/Junior Engineer/Assistant Research Officer, the seniority of Sub-Engineers, mentioned in clause (d), shall be determined from the date of acquiring the Degree in B.E/B.Sc Engineering (Civil, Mechanical or Electrical) from a recognized University.";

(iii) against Serial No.5, in Column No. 5, for the existing entries, the following shall be substituted, namely:

5	
(a)	Fifteen percent (15%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Work Superintendent, Work Supervisor, Surveyor and Road Inspector with at least five years service as such, having three years Diploma in Civil, Electrical or Mechanical Technology from a recognized Board of Technical Education.
<b><u>Note:</u></b>	For the purpose of promotion, a joint seniority list of the Work Superintendents, Work Supervisors, Surveyors and Road Inspectors with reference to their regular appointment to the post shall be maintained. The seniority shall be determined from the date of appointment or acquiring the Diploma in Civil, Electrical or Mechanical Technology from a recognized Board of Technical Education, whichever is later:  Provided that in case the two dates are similar, the official in BPS-12 shall rank senior;
(b)	five percent (5%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Work Superintendent, Work Supervisor and Road Inspector, who have passed "B" Grade Departmental Examination with seven years service as such.
<b><u>Note:</u></b>	For the purpose of promotion, a joint seniority list of the Work Superintendents, Work Supervisors and Road Inspectors, with reference to their regular appointment to the post shall be maintained. In case the two dates are similar, the official in BPS-12 shall rank senior;

Section Officer (Estab)  
Govt. of Khyber Pakhtunkhwa  
C&W Department

2022

- (c) two point five percent (2.5%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Draftsman with at least seven years service as such, having three years Diploma in Civil, Electrical or Mechanical Technology from a recognized Board of Technical Education;
- Note:** For the purpose of promotion to the post of Sub-Engineers, the seniority of Draftsman shall be determined from the date of appointment or acquiring the Diploma in Civil, Electrical or Mechanical Technology from a recognized Board of Technical Education, whichever is later;
- (d) two point five percent (2.5%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Tracer, with seven years service as such, having three years Diploma in Civil, Electrical or Mechanical Technology from a recognized Board of Technical Education.
- Note:** For the purpose of promotion to the post of Sub-Engineers, the seniority of Tracers shall be determined from the date of appointment or acquiring the Diploma in Civil, Electrical or Mechanical Technology from a recognized Board of Technical Education, whichever is later; and
- (e) seventy-five percent by initial recruitment.”;

(b) under the heading “ARCHITECTURAL SERVICE”,-

(i) against Serial No.15, in Column No. 3 and 5, for the existing entries, the following shall respectively be substituted, namely:

3	5
(a) Three years Diploma in Architectural Technology from a recognized Board/Institute of Technical Education with knowledge of AutoCAD 2-D and 3-D, 3D Studio MAX, Adobe Photoshop and Power Point; or (b) Two years Certificate Course in Civil Draftsmanship from a recognized Board/Institute of Technical Education with knowledge of AutoCAD 2-D and 3-D, 3D Studio MAX, Adobe Photoshop and Power Point.	(a) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Junior Architectural Draftsman and Junior Computer Aided Design (CAD) Operator with at least three years service as such; and (b) Fifty percent (50%) by initial recruitment.”;

(ii) against Serial No.16, in Column No. 3 and 5, for the existing entries, the following shall respectively be substituted, namely:

3	5
(a) Three years Diploma in Architectural Technology from a recognized Board/ Institute of Technical Education with knowledge of AutoCAD 2-D and 3-D, 3D Studio MAX, Adobe Photoshop and Power Point; or (b) Two years Certificate Course in Civil Draftsmanship from a recognized Board/Institute of Technical Education with knowledge of AutoCAD 2-D and 3-D, 3D Studio MAX, Adobe Photoshop and Power Point.	(a) Sixty seven percent (67%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of AutoCAD Assistant and 3D's Assistant with at least five years service as such. <b>Note:</b> For the purpose of promotion, a joint seniority list of the AutoCAD Assistants and 3D's Assistant shall be maintained; and (b) thirty three percent (33%) by initial recruitment.”; and

Section Officer (Estab)  
 Govt. of Mysore Palanahalli  
 C&W Department

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(iii) after Serial No.16, as so amended, the following new entries shall be inserted, in respective Columns, namely:

66

1	2	3	4	5
"16A.	AutoCAD Assistant.	At least Second Division Secondary School Certificate or its equivalent qualification from a recognized Board with two years Certificate Course in Civil Draftsman from a recognized Board/ Institute of Technical Education alongwith knowledge and experience of Architecture design drawings on AutoCAD, AutoCAD 2-D and Power Point.	18-30 years.	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Daftari, Survey Cooli, Naib Qasid and Chowkidar with at least three years service, who possesses Secondary School Certificate or its equivalent qualification from a recognized Board alongwith two years Certificate Course in Civil Draftsman from a recognized Board/Institute of Technical Education having knowledge of AutoCAD 2-D, Power Point and work experience of preparing detail architectural drawings in the office of Principal Consulting Architect/Central Design Office:  Provided that if no suitable persons are available for promotion, then by initial recruitment.
16B.	3D Assistant.	At least Second Division Secondary School Certificate or its equivalent qualification from a recognized Board with two years Certificate Course in Civil Draftsman from a recognized Board/ Institute of Technical Education alongwith knowledge and experience of Architecture design drawings on AutoCAD 3-D, 3-D Studio MAX, Adobe Photoshop and Power Point.	18-30 years.	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Daftari, Survey Cooli, Naib Qasid and Chowkidar with at least three years service who possesses Secondary School Certificate or its equivalent qualification from a recognized Board alongwith two years Certificate Course in Civil Draftsman from a recognized Board/Institute of Technical Education and having knowledge of AutoCAD 3-D, 3-D Studio MIX, Adobe Photoshop and Power Point with work experience in the office of Principal Consulting Architect/ Central Design Office:  Provided that if no suitable persons are available for promotion, then by initial recruitment.

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*16-10-12*

(c) under the heading "MINISTERIAL ESTABLISHMENT",-

(i) against Serial No. 21, in Column No. 5, in clause (b), for the words "five years", the words "three years" shall be substituted;

(ii) against Serial No.24, in Column No. 3, 4 and 5 for the existing entries, the following shall respectively be substituted, namely:

67

3	4	5
<p>“(a) at least Second Division Intermediate Certificate or its equivalent qualification from a recognized Board; and</p> <p>(b) a speed of thirty (30) words per minute in English typing.</p>	<p>18 to 30 years.</p>	<p>a) Thirty three percent (33%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Daftari, Record Lifter, Naib Qasid and Chowkidar including holders of other equivalent posts with two year service as such, who have passed Intermediate Examination or its equivalent qualification from a recognized Board; and</p> <p>b) Sixty Seven percent (67%) by initial recruitment.</p> <p><b>Note:</b> For the purpose of promotion, there shall be maintained a common seniority list of Daftaries, Record Lifters, Naib Qasids and Chowkidars, including holders of other equivalent posts with reference to the dates of their acquiring the Intermediate Certificate or its equivalent qualification from a recognized Board:</p> <p>Provided that-</p> <p>(i) if two or more official have acquired the Intermediate Certificate in the same session, the inter-se-seniority in the lower post shall be maintained for the purpose of determining seniority in the higher post; and</p> <p>(ii) where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or officials:</p> <p>Provided further that the condition of Intermediate Certificate or its equivalent qualification, as laid down at clause (a) shall not be applied till the expiration of period as specified in Column No. 5 against Serial No. 4 of the Establishment Department's Notification No. SOE.IV(E&amp;AD)/1-35/2014, dated 18<sup>th</sup> July, 2019 to the existing matriculate incumbents of the posts of Daftaries, Record Lifters, Naib Qasids and Chowkidars, including holders of other equivalent posts for promotion to the post of Junior Clerk (BPS-11).”; and</p>

(iii) against Serial No. 26, in Column No. 5, after the word and comma “Chowkidars”, the word “Sweeper” shall be inserted; and

(d) after Serial No.35, the following new entries shall be inserted, in the respective Columns, namely:

**“INFORMATION TECHNOLOGY SERVICE**

S. No.	Nomenclature of the Post	Minimum Qualification for Appointment	Age Limit	Method of Recruitment
1	2	3	4	5
36.	Assistant Director IT.	<p>(a) At least Second Class Master's Degree in Computer Science or its equivalent qualification from a recognized University; or</p> <p>(b) at least Second Class Bachelor of Science Degree (BS Hons 4 years) in Computer Science from a recognized University.</p>	22-35 years.	<p>By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Assistant Programmer and Computer Operator with five years service as such:</p> <p>Provided that if no suitable persons are available for promotion, then by initial recruitment.</p>

Govt. of Khyber Pakhtunkhwa  
 C&W Department  
 Section Officer (Estab)  
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37.	Assistant Director GIS.	<p>(a) At least Second Class Master's Degree in Geography or Physical and Numerical Sciences or its equivalent qualification with one year Post Graduate Diploma in GIS from a recognized University; or</p> <p>(b) at least Second Class Bachelor of Science Degree (BS Hons 4 years) in Geomatics from a recognized University.</p>	22-35 years.	<p>By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of GIS Analyst, having three years service as such:</p> <p>Provided that if no suitable persons are available for promotion, then by initial recruitment.</p>
38.	Economist.	<p>(a) At least Second Class Master's Degree in Economics or Statistics or Master in Business Administration (MBA) or Master in Commerce (M-Com) from a recognized University; or</p> <p>(b) at least Second Class Bachelor of Science Degree (BS Hons 4 years) in Economics from a recognized University.</p>	22-35 years.	By initial recruitment.
39.	Assistant Programmer.	<p>(a) At least Second Class Bachelor's Degree in Computer Science (BCS Hons 4 years) or its equivalent qualification from a recognized University; or</p> <p>(b) at least Second Class B.Sc Degree in Computer Science from a recognized University.</p>	22-30 years.	By initial recruitment.
40.	Computer Operator.	<p>(a) At least Second Class Bachelor's Degree in Computer Science or Information Technology (BCS/BIT Hons 04 years) from a recognized University; or</p> <p>(b) at least Second Class Bachelor's Degree from a recognized University with one year Diploma in Information Technology from a recognized Board of Technical Education.</p>	22-30 years.	By initial recruitment.

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 Govt. of Khyber Pakhtunkhwa  
 C&M Department

41.	GIS Analyst.	(a) At least Second Class Bachelor's of Science Degree (BS Hons 4 years) in Geomatics from a recognized University; or (b) at least Second Class Bachelor's Degree with one year Post Graduate Diploma in GIS from a recognized University.	22-30 years.	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of GIS Data Collector, with three years service as such.  Provided that if no suitable persons are available for promotion, then by initial recruitment.
42.	GIS Data Collector.	(a) At least Second Class Bachelor's of Science Degree (BS Hons 4 Years) in Geomatics from a recognized University; or (b) at least Second Class B.Sc Degree with one year Post Graduate Diploma in GIS from a recognized University.	22-30 years	By Initial Recruitment

Section Officer (Estab)  
Govt. of Khyber Pakhtunkhwa  
C&W Department

**SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department**

Endst of even number and date

Copy is forwarded to the:-

1. All Administrative Secretaries, Govt of Khyber Pakhtunkhwa
2. Secretary to Governor Khyber Pakhtunkhwa, Peshawar
3. Principal Secretary to Chief Minister Khyber Pakhtunkhwa, Peshawar
4. All Chief Engineers C&W Department
5. Managing Director PKHA Peshawar
6. Secretary Khyber Pakhtunkhwa Public Service Commission Peshawar
7. All Superintending Engineers C&W Circles
8. Superintending Engineer Maintenance Peshawar
9. Superintending Engineer C&W Circle North Waristan at Bannu
10. Superintending Engineer Mega Projects
11. All Executive Engineers C&W/Building/Highway Divisions
12. Section Officer (R-V) Establishment Department, Peshawar
13. Deputy Legistation Officer-IV, Law Department, Peshawar
14. Managing Printing Press for publication in the issue of next Govt gazette
15. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar
16. PS to Advisor to Chief Minister Khyber Pakhtunkhwa for C&W Department
17. PS to Secretary, C&W Department, Peshawar
18. PA to Addl: Secretary, C&W Department, Peshawar
19. PA to Deputy Secretary (Admn), C&W-Deptt, Peshawar
20. Office File

*Za-hoor*  
26.01.2022  
(ZAHOOR SHAH)  
SECTION OFFICER (Estb)

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**MINUTES OF MRC MEETING REGARDING AMENDMENTS IN SERVICE RULES OF IRRIGATION DEPARTMENT, KHYBER PAKHTUNKHWA**

A meeting on the above captioned subject was held under the chairmanship of Secretary Irrigation, Khyber Pakhtunkhwa on 21.05.2012 at 11:00 am in his office.

The following attended the meeting:

- (i) Secretary Irrigation Department.
- (ii) Chief Engineer (South).
- (iii) Reps of Establishment and Finance Departments,
- (iv) Section Officer (Estb) Irrigation Department,
- (v) Administrative Officer (South), Chief Engineer (S) office.

The meeting started with the recitation from the Holy Quran.

Agenda Item No. 01:-

**AMENDMENTS IN THE SERVICE RULES OF IRRIGATION DEPARTMENT PERTAINING TO SENIORITY LIST OF SUB ENGINEERS.**

Section officer (Estt:) apprised the forum that there is an anomaly in the service rules of Irrigation Department's appendix to the notification no. dated 25.05.2012 at column 5 of Sr.No4 in clause (b), and (c) where it is mentioned that:-

- (b) Twelve percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers, having degree in Civil Engineering or Mechanical Engineering from a recognized university and have passed departmental grade B&A examination with five years' service as such.

*Note: For the purpose of Clause (b), a joint seniority list of the Sub Engineers having Degree in Civil Engineering or Mechanical Engineering shall be maintained and their seniority is to be reckoned from the date of their 1<sup>st</sup> appointment as Sub Engineer.*

- (c) Eight percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers, having Degree in B. Tech (Hons) and have passed departmental Grade B and A examination with five years service as such; and

*Note: For the purpose of clause (c), a seniority list of Sub Engineers having Degree in B. Tech (Hons) shall be maintained and their seniority is to be reckoned from date of their 1<sup>st</sup> appointment as Sub Engineer.*

In order to resolve this anomaly, it was proposed that against Sr.No.04 in Column No.05 at clause (b) after the words "their 1<sup>st</sup> appointment as Sub Engineer" the words "or from the date of acquiring degree whichever is later" be added and at clause (c) after the words "their 1<sup>st</sup> appointment as Sub Engineer" the words "or from the date of acquiring degree whichever is later" be added. The members of the MRC unanimously agreed to the proposed amendments.



Agenda Item

AMENDMENTS IN THE SERVICE RULES OF DRAWING ESTABLISHMENT (DRAFTSMAN BS-11) IN IRRIGATION DEPARTMENT KHYBER PAKHTUNKHWA.

Irrigation Department notified service rules vide notification No. No.So(E)/Irr/23-5/73 dated 17-2-2011 wherein criteria for initial recruitment/promotion of Draftsman (BS-11) is enunciated as below:-

- a. Fifty percent by initial recruitment.
- b. Twenty five percent by promotion, on the basis of seniority-cum-fitness from amongst the Tracers having Certificate of Civil Draftsman course of two years duration from a recognized Board of Technical Education with three years' service as such; and
- c. Twenty five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Tracers who have qualified the prescribed Departmental Examination of Draftsman and having three years service as such.

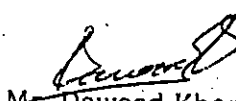
Note: If no suitable candidate is available for promotion against the quota at (b) then the vacancy shall be filled-in by the way as prescribed at (c) and Vice Versa.

Amendments regarding the method of recruitment for the post of Draftsman at Sr No.26 (part-V) of appendix to the notification No. So(E)/Irr/23-5/73 dated 17-2-2011 was explained in detail by Section Office (Estt.). The following amendments were put forward by the Department:-

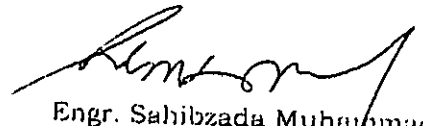
- a. Twenty percent by initial recruitment.
- b. Eighty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Tracers who have qualified the prescribed Departmental Examination of Draftsman and having three years service as such.


The Committee deferred the agenda Item No.02 for clarification that whether these posts have been advertised in past or otherwise.

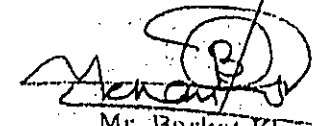
7- The meeting ended with a vote of thanks to and from Chair.


  
Mr. Dawood Khan

Secretary Irrigation Department (Chairman)

  
Engr. Sahibzada Muhammad Shabir  
Chief Engineer (South) (Member).

  
Mr. Muhammad Yousaf Khan  
Deputy Secretary (Reg-III) Estt  
Department (Member)

  
Mr. Barkat Khan  
Section Officer (SR-III)  
Finance Deptt (Member)

  
Mr. Abdul Raul, Section Officer (Estt.)  
Irrigation Deptt (Secretary/Member)

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT / 1096-98

No. ALO (Lit) Misc/S.A. 7917/2021 Engr. Imtiaz Khan  
Dated Peshawar the \_\_\_ / \_\_\_ / 2022

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Irrigation Department.

From

Section Officer (Lit)

Subject

SERVICE APPEAL NO. 7917/2021 TITLED ENGR. IMTIAZ KHAN  
VERSUS CHIEF SECRETARY, KHYBER PAKHTUNKHWA &  
OTHERS

Dear Sir,

I am directed to refer to your letter No. SO(Lit)/Irr/3-489/2022 dated  
25.04.2022 on the subject noted above and to return herewith Joint Parawise Comments duly  
signed by Secretary Law Department (in original) for further course of action, please.

Yours faithfully,

(Naid Wali Afridi)  
Assistant Law Officer

Encl: No. & Date Even

Copy is forwarded to the

- 1 PS to Secretary Law Department Khyber Pakhtunkhwa.
- 2 PA to Deputy Section Law Department.

O/C

Assistant Law Officer

**MOST IMMEDIATE/  
COURT MATTER**

1448  
27-4  
20

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
IRRIGATION DEPARTMENT  
Litigation Section**

Government of Khyber Pakhtunkhwa, Irrigation Department, Peshawar. Phone: 091-9723449

No. SO (L&P) 27-13-489/2022

Dated Peshawar the 26<sup>th</sup> April, 2022

To

Secretary to Govt. of Khyber Pakhtunkhwa,  
Law, Parliamentary Affairs and Human Rights Department.

Subject: **SERVICE APPEAL NO.7917/2021 TITLED ENGR. IMTIAZ KHAN VS  
CHIEF SECRETARY, KHYBER PAKHTUNKHWA & OTHERS.**

Dear Sir,

I am directed to refer to the subject noted above and to forward herewith joint para-wise comments duly vetted by the Additional Advocate General, Services Tribunal Khyber Pakhtunkhwa and signed by Secretary Irrigation for signature of Secretary Law, Parliamentary Affairs & Human Rights Department in capacity of Respondent No.04.

After doing the needful, the comments may be sent to this Department, at the earliest, please.

Yours faithfully,

  
Section Officer (Litigation)

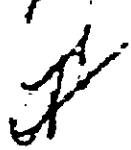
**Encl: As above.**


**Endst: No and date even**

Copy for information is forwarded to:-

L/O

1. PS to Secretary Irrigation, Khyber Pakhtunkhwa.
2. PA to Additional Secretary Irrigation, Khyber Pakhtunkhwa.

  
27/4/22

  
27-4-22

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Section Officer (Litigation)

NSW  
29/4.

Put up.  
pl.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 7917/2021

*valley 10/11*

.....Appellant  
Versus

Chief Secretary, Khyber Pakhtunkhwa and others ..... Respondents

**JOINT PARA-WISE COMMENTS ON BEHALF OF THE RESPONDENT NO. 02 to 06**

1 to 6

**RESPECTFULLY SHEWETH:**

Extraordinary objections:

1. That the appellant has got no cause of action/focus stand.
2. That the appellant has not come to this court with clean hands.
3. That the appellant has concealed some material facts from this Hon'ble Court.
4. That the appellant is disentitled for the relief claimed.

ON FACTS

*and the office of the appellant is hereby time 1  
the appellant is held for non joined and no  
of material facts*

1. Correct.
2. Correct to the extent that the appellant is a civil engineer and not mechanical engine. It is further added that the service rules quoted in paragraph were applicable 24.03.2021 and after word the Irrigation Department vide notification no. SOE/Irr/573/13-VI dated 24.08.2021, in consultation with Establishment Department, Finance Department and Law Department, has allocated 12% quota for promotion of SD having B-Tech Honor Degree Holder and 08% quota for promotion of Diploma Holder SDOs through proper procedure of Standing Service Rules Committee (SSI (Annex-II)).
3. Incorrect. The Law Department is not a member of the standing service rule committee as clarified by the Law Department (Annex-III), the B-Tech and Diploma Holder SDOs were granted quota for promotion to BS-18 through proper SSRC consultation with Establishment, Finance Departments and properly vetted by Law Department. It is also clarified that the Civil Servants are governed under Civil Serv. Act, 1973 and not under PEC Act, 1976.
4. Incorrect, to the extent that B-Tech and Diploma Holder Sub Engineers of Irrigation Department were granted quota for promotion to BS-17 in 2011. It is also clarified that the Civil Servants are governed under Civil Servant Act, 1973 and not under PEC Act 1976.
5. Incorrect. The appeal of the appellant was properly examined and filed being devoid of merit.
6. No comments.

Comments:

1. Incorrect. The SSRC was convened in accordance with law.
2. Incorrect. No violation of Constitution of Pakistan has been done.
3. Incorrect. In light of the amendment in service dated 24.08.2021, the B-Tech and Diploma Holder SDOs are also eligible for promotion to BS-18.
4. Incorrect. Para-03 of the facts is reiterated.
5. Correct to the extent that the committee was constituted, however, in consultation with Establishment Department, Finance Department and Law Department, has allocated 12% quota for promotion of SDOs having B-Tech Honor Degree Holder and 08% quota for promotion of Diploma Holder SDOs through proper procedure of Standing Service Rules Committee (SSRC).

- 6. **Correct.** The Service Rules of Irrigation Department were amended and 12% share quota for Sub Engineers having B-Tech Honor Degree and 8% quota for Diploma Holders Sub Engineers was reserved on 25.06.2012.
- 7. **Incorrect.** As per amended service rules of Irrigation Department dated 24.08.2021, the B-Tech Degree Holder and Diploma Holder SDOs are eligible to be posted against BS-18 post.
- 8. **Incorrect.** Para-7 above is reiterated.
- 9. **Incorrect.** The Civil Servants are governed under Civil Servant Act, 1973 and not under PEC Act, 1976.
- 10. **Incorrect.** Para-9 above is reiterated.
- 11. **Incorrect.** The Hon'ble Supreme Court of Pakistan in its decision in CP No. 78-K/2015 announced on 03.10.2018 has allowed 12% quota for B-Tech Degree Holder and 8% for Diploma Holder SDOs for promotion to the post of BS-18.
- 12. **Incorrect.** Para-7 above is reiterated.
- 13. **Incorrect.** Para-9 above is reiterated.
- 14. **Incorrect.** Para-9 above is reiterated.
- 15. **Incorrect.** Para-9 above is reiterated.
- 16. **Incorrect.** Para-9 above is reiterated.
- 17. **No-comments** - *petition is to be denied.*
- 18. **Incorrect.** Para-9 above is reiterated.
- 19. **Incorrect.** Hence, denied.
- 20. That any other grounds will be raised at the time of arguments with the prior permission of this Hon'ble Service Tribunal.

It is, therefore requested that the status quo may be lifted and service appeal being devoid of merits may be dismissed with cost, please.

*Submitted for lifting pls  
20/3/22*

Secretary to Govt. of Khyber  
Pakhtunkhwa, Irrigation Department  
Respondent No. 2

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

Secretary to Govt. of Khyber  
Pakhtunkhwa, Law, Parliamentary  
Affairs & Human Rights Department  
Respondent No. 4

Secretary to Govt. of Khyber  
Pakhtunkhwa, Finance Department  
Respondent No. 5

Chief Engineer (South)  
Irrigation Department  
Respondent No. 6

*[Signature]*  
Section Officer (Legal)  
Irrigation Department

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

**Service appeal No. 7917/2021**

Engr. Iniaz Khan.....Appellant

Versus

Chief Secretary, Khyber Pakhtunkhwa and others ..... Respondents

**JOINT PARA-WISE COMMENTS ON BEHALF OF THE RESPONDENT NO. 01 to 06**

**RESPECTFULLY SNEWETH:**

**Preliminary objections:**

1. That the appellant has got no cause of action/locus standi.
2. That the appellant has not come to this court with clean hands.
3. That the appellant has concealed some material facts from this Hon'ble Court.
4. That the appellant is disentitled for the relief claimed.
5. That the appeal of the appellant is badly time barred.
6. That the appeal is bad for misjoinder and nonjoinder of necessary parties.

**ON FACTS**

1. **Pertains to record.**
2. **Correct** to the extent that the appellant is a civil engineer and not mechanical engineer. It is further added that the service rules quoted in paragraph were applicable till 24.08.2021 and after word the Irrigation Department vide notification no. SOE/1rr/23-5/73/Vol-VI dated 24.08.2021, in consultation with Establishment Department, Finance Department and Law Department, has allocated 12% quota for promotion of SDOs having B-Tech Honor Degree Holder and 08% quota for promotion of Diploma Holder SDOs through proper procedure of Standing Service Rules Committee (SSRC) (Annex-II).
3. **Incorrect.** The Law Department is not a member of the standing service rules committee as clarified by the Law Department (Annex-III), the B-Tech and Diploma Holder SDO's were granted quota for promotion to BS-18 through proper SSRC in consultation with Establishment, Finance Departments and properly vetted by Law Department. It is also clarified that the Civil Servants are governed under Civil Servant Act, 1973 and not under PEC Act, 1976.
4. **Incorrect,** to the extent that B-Tech and Diploma Holder Sub Engineers of Irrigation Department were granted quota for promotion to BS-17 in 2011. It is also clarified that the Civil Servants are governed under Civil Servant Act, 1973 and not under PEC Act 1976.
5. **Incorrect.** The appeal of the appellant was properly examined and filed being devoid of merit.
6. **No comments.**

**Grounds:-**

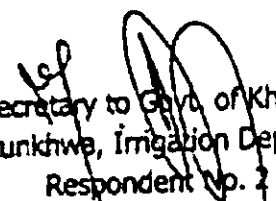
1. **Incorrect.** The SSRC was convened in accordance with law.
2. **Incorrect.** No violation of Constitution of Pakistan has been done.
3. **Incorrect.** In light of the amendment in service dated 24.08.2021, the B-Tech and Diploma Holder SDOs are also eligible for promotion to BS-18.
4. **Incorrect.** Para-03 of the facts is reiterated.
5. **Correct** to the extent that the committee was constituted, however, in consultation with Establishment Department, Finance Department and Law Department, has allocated 12% quota for promotion of SDOs having B-Tech Honor Degree Holder and 08% quota for promotion of Diploma Holder SDOs through proper procedure of Standing Service Rules Committee (SSRC).

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- 6. Correct. The Service Rules of Irrigation Department were amended and 12% share quota for Sub Engineers having B-Tech Honor Degree and 8% quota for Diploma Holders. Sub Engineers was reserved on 25.06.2012.
- 7. Incorrect. As per amended service rules of Irrigation Department dated 24.08.2021, the B-Tech Degree Holder and Diploma Holder SDOs are eligible to be posted against BS-18 post.
- 8. Incorrect. Para-7 above is reiterated.
- 9. Incorrect. The Civil Servants are governed under Civil Servant Act, 1973 and not under PEC Act, 1976.
- 10. Incorrect. Para-9 above is reiterated.
- 11. Incorrect. The Hon'ble Supreme Court of Pakistan in its decision in CP No. 78-K/2015 announced on 03.10.2018 has allowed 12% quota for B-Tech Degree Holder and 8% for Diploma Holder SDOs for promotion to the post of BS-18.
- 12. Incorrect. Para-7 above is reiterated.
- 13. Incorrect. Para-9 above is reiterated.
- 14. Incorrect. Para-9 above is reiterated.
- 15. Incorrect. Para-9 above is reiterated.
- 16. Incorrect. Para-9 above is reiterated.
- 17. Pertains to record.
- 18. Incorrect. Para-9 above is reiterated.
- 19. Incorrect. Hence, denied.
- 20. That any other grounds will be raised at the time of arguments with the prior permission of this Hon'ble Service Tribunal.

It is, therefore requested that the status quo may be lifted and service appeal being devoid of merits may be dismissed with cost, please.


Chief Secretary, Khyber Pakhtunkhwa  
Respondent No. 01

  
Secretary to Govt. of Khyber  
Pakhtunkhwa, Irrigation Department  
Respondent No. 2

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

  
Secretary to Govt. of Khyber  
Pakhtunkhwa, Law, Parliamentary  
Affairs & Human Rights Department  
Respondent No. 4

Secretary to Govt. of Khyber  
Pakhtunkhwa, Finance Department  
Respondent No. 5

  
Chief Engineer (South)  
Irrigation Department  
Respondent No. 6

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*[Handwritten signature]*

Ps/ Sec. Irrigation

Diary No. 1882

Date: 25-2-2003

To:

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Irrigation Department, Peshawar.

Subject: -

JOINT APPLICATION FOR RESERVATION OF PROMOTION QUOTA IN  
BS-18 AND ABOVE FOR B.TECH (HONS) DEGREE HOLDER SUB  
DIVISIONAL OFFICER'S / ASSISTANT ENGINEERS (BS-17) ON THE  
ANALOGY OF B.SC ENGINEERING DEGREE HOLDER SUB  
DIVISIONAL OFFICER'S.

Dear Sir

We the following B.Tech (Hons) degree holder Sub Divisional Officer's /Assistant Engineers (BS-17) invite your kind attention to the step mother treatment/injustice, done with us in the Irrigation Department by depriving the said Engineers from promotion in BS-18 and onward and other benefits which are enjoying by the Sub Divisional Officer's / Assistant Engineers, having B.Sc, Engineering / B-E degree. This attitude of the Provincial Government in works Department is not only in violation of article-25 of the Constitution of Islamic Republic of Pakistan but also tantamount to contempt of the apex court's order passed in Suo Moto Review Petition No.52 of 1993 dated 25-06-1995, whereby B.Tech (Hons) degree has held at par and competent to that of B.Sc Engineering / B.E degree for the purpose of pay, grade, promotion and other benefits (Annex-I). In this context necessary steps taken by the Federal Government and Provincial Governments as well are reproduced below for perusal of your good-self and sympathetic consideration please:-

- i. That pursuant to the Supreme Court of Pakistan judgment dated 25-06-1995, the Government of Pakistan, Ministry of Education, Islamabad vide Office Memorandum No.F.8-1/94-Polytechnic dated 17-04-1996 declared that B.Tech (Hons) degree shall be treated at par to B.Sc Engineering / B-E degree (Annex-II). Moreover, the Cabinet Secretariat Establishment Division Government of Pakistan vide its letter dated 01-04-1996 has withdrawn the condition of registration with Pakistan Engineering Council in Government Departments (Annex-III). Furthermore, Lahore High Court, Peshawar High Court, Sindh High Court, Hyderabad Bench, Apex Court and Service Tribunal, Islamabad etc in their respective judgments have admitted stance of the B.Tech (Hons) degree holder Engineers and have allowed them for further promotion in BS-18 and above alongwith other benefits on the basis of equality with B.Sc Engineering degree holder Engineers (Annexures-IV-VII).

*[Handwritten notes and signatures]*  
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out  
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Secretary Irrigation

- ii. That in light of the Apex Court orders and Sindh High Court, Hyderabad Bench judgment, Government of Sindh Works and Services Department, Irrigation



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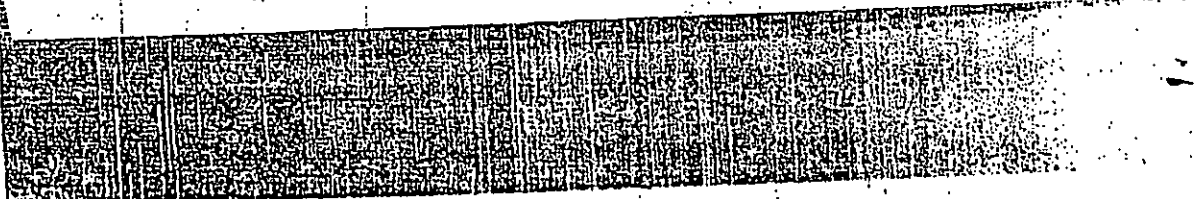
quantification of professional work of engineers and accrediting of engineering universities etc and not as a regulator of employment be that be of government service or in the private service. The reasons for it could be found that all sort of engineering work could not be and may not be a professional engineering work for performance of which professional engineers are required.

v. That in order to remove confusion with regard to the note of caution, recorded by the apex court, referred to above, the Advocate General Sindh in his letter dated 18-6-2019 addressed to Secretary to Govt. of Sindh Law Department, has categorically clarified that "there is no embargo on the posting of B.Tech (Hons) degree holder as engineers in Government Departments, nor is there any embargo on their being promoted or their being assigned field posts provided the nature of the work to be performed by them etc." (Annexure-XVI). The Law Department, Sindh has endorsed the Advocate General's letter to the Secretaries of W&S, Local Govt., School Education & Literacy, Agriculture, Industries, PHE and Irrigation Departments with the further clarification that advice of the Advocate General has addressed many points about admissibility of posting of B.Tech (Hons) degree holders as Engineers in the field and considering them for their subsequent promotions. (Annex-XVII)

vi. That Chairman, Pakistan B. Tech. Engineers Council (Regd) in his letter dated 23-12-2020, addressed to Chief Secretary, Khyber Pakhtunkhwa has pointed out that promotion cases of Engineers possessing B.Tech (Hons) degree are pending since long relying upon mis-interpretation of Hon'able Supreme Court of Pakistan judgement dated 3-10-2018 in CP No. 78/K of 2015 made by Pakistan Engineering Council and its biased mand agents in the KPK engineering departments. Through going the contents of the said judgement, has been observed that there is nothing debaring/refusal or pending the promotion cases of B.Tech (Hons) degree holder Engineers and has requested to direct all the works departments of the KPK to consider/finalize promotion cases of all the Engineers having B.Tech (Hons) degree (Annex-XVIII).

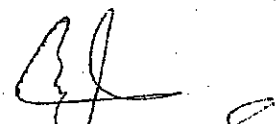
vii. That in the W.P No. 2609 of 2020 filed by Muhammad Khurshed v/s Federation of Pakistan and others, in the Islamabad High Court, the respondents in their comments has mentioned/recorded that B.Tech (Hons) and B.E/B.Sc.Engineering degrees prepares aspirants for two distinguished jobs, the former focuses on implementation while later emphasis on the research and design. Moreover, engineers generally operate in conceptual design, innovatg solution and product development while technologists generally work in applied nature of jobs like testing, construction, field works operations etc (Annexure-XX).

In light of the numerous orders of the different courts of law, declaration of the Government of Pakistan, Ministry of Education, Cabinet Secretariat, Establishment Division Islamabad pertaining to the bringing at par / comparable degree of B.Tech (Hons) to that of B.Sc



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Engineering / B.E degrees for the purpose of pay, grad, promotion and other benefits and rules amended by the different Departments of Sindh Government and Provincial Government of Khyber Pakhtunkhwa as well, it is humbly prayed that separate 20% quota for promotion to the rank of Executive Engineer (BS-18) and onward may be provided/reserved for the deprived category of B.Tech (Hons) degree holder Sub Divisional Officers / Assistant Engineers (BS-17) of Irrigation Department on the analogy of Local Government Department Khyber Pakhtunkhwa at the earliest please

  
Yours Faithfully.

By Director  
Jabba Dam project.

Amanullah Khan  
S.O.O Drainage  
Sub Divn Peshawar  
Dist Peshawar.

Niaz Begum  
S.O.O Charsadda Sub Divn

**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

Present:  
Mr. Justice Gulzar Ahmed  
Mr. Justice Qazi Faez Isa  
Mr. Justice Sardar Tariq Masood

**C.P.No.78-K of 2015**  
[On appeal against order dated 21.11.2014  
passed by the Sindh Service Tribunal,  
Karachi, in Appeal No.195 of 2014]

Maula Bux Shalkh & others Petitioner(s)  
**VERSUS**  
Chief Minister Sindh & others Respondent(s)

- For Petitioner No.1 : Mr. Salah-ud-Din Ahmed, ASC
- For Petitioner Nos.2-3 : Mr. Rasheed A Rizvi, Sr. ASC
- For Respondent Nos.1-4 : Mr. Sabtain Mehmood, Asstt:A.G. Sindh
- For Respondent No.5 : Mr. Ghulam Haider Shalkh, ASC
- For Respondent Nos.6-7 & 9 : Nemo
- For Respondent Nos.8 & 12 : Dr. Muhammad Farough Naseem, ASC
- For Rspdnt Nos.10-11, 13-17 : Mr. M. Aqil Awan, Sr. ASC
- Date of Hearing : 24.04.2018

**JUDGMENT**

**GULZAR AHMED, J.**— Maula Bux Shalkh, Petitioner No.1, (the Petitioner) had filed a Service Appeal before the Sindh Service Tribunal, Karachi, (the Tribunal) challenging Notification No.SOI(W&S)E/12-1/2005 dated 19.03.2014 to be ultra vires the Pakistan Engineering Council Act, 1976 (PEC Act). The circumstances under which the Service Appeal was filed by the Petitioner are that he was employed as Sub Engineer BS-11 in the year 1985 in the Works and Services Department, Government of Sindh, Karachi. He was

promoted as Assistant Engineer BS-17 in the year 1997 and since then has been serving in such post in his said department. The case of the Petitioner is that he is a qualified engineer holding degree of Bachelor of Engineering. He has unblemished service record and is eligible for promotion to the post of Executive Engineer BS-18 but on account of the notification, referred to above, his chance for promotion as Executive Engineer BS-18 has been gravely diminished for the reason that said notification has provided 13% promotion quota to Diploma holders and 7% promotion quota to B.Tech (Hons) Degree holders for the post of Executive Engineer BS-18. The grievance of the Petitioner is that the post of Executive Engineer BS-18 being that of a purely professional engineering work could only be performed by a professional engineer holding accredited engineering qualification, as provided in the PEC Act.

is applicable  
 amount of work?  
 is professional  
 work of post?

2. We have heard learned ASCs for the parties at length and have gone through the record of the case. The learned ASCs for the parties have also filed their written note of arguments, which too have been perused by us.

3. The notification dated 19.03.2014 is as follows:

**NOTIFICATION**

No.SOI(W&S)E.W/12-1/2005: In pursuance of Sub-Rule (2) of Rule-3 of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules 1974 and in consultation with the Services, General Administration & Coordination Department, Government of Sindh, and in partial modification of this Department's Notification No. FI(C&W)1-34/81-84(86) dated 14.01.1987, the method, qualification and other conditions for appointment in respect of the post of Executive Engineer (BPS-18) (Civil/Mechanical/Electrical) in Works & Services Department, Government of Sindh mentioned in column-2 of the table below:-

TABLE

Name of the post with BS	METHOD OF APPOINTMENT
1	2
Executive Engineer (Civil/Mechanical & Electrical) (BPS-18)	i) Eighty percent by promotion from amongst the Assistant Engineers B.E. in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology. ii) Thirteen percent by promotion from amongst the Diploma holder Assistant Engineers having Diploma in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology and iii) Seven percent by promotion from amongst the Assistant Engineers having B.Tech (Hons) degree in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology.

QAZI SHAHID PERVEZ  
SECRETARY TO GOVT. OF SINDH

4. In order to regulate the engineering profession, the Parliament has passed PEC Act on 10.01.1976. Section 2(ii) of the PEC Act defines accredited engineering qualification, which is as follows:

"accredited engineering qualification" means any of the qualification included in the First Schedule or the Second Schedule"

5. It is common ground that neither Diploma nor B.Tech (Hons) Degree are accredited engineering qualification for the reason that there is no reference to the Diploma and B.Tech (Hons) Degree in the accredited engineering qualification provided in the first and second schedule of the PEC Act. Thus, accredited engineering qualification is ascribed to those who hold Bachelor Degree in Engineering from

accredited -- Engineering Universities/Institutions in Pakistan and abroad.

6. Professional Engineer is defined in Section 2(xxiii), which is as follows:

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"professional engineer" means a person who holds an accredited engineering qualification and after obtaining a professional experience of five years, whether working privately or in the employment of an engineering public organization, has passed the prescribed engineering practice examination and is registered as such by the Council.

7. Professional Engineering Work is defined in Section 2(xxv) as follows:

"professional engineering work" means the giving of professional advice and opinions, the making of measurements and layouts, the preparation of reports, computations, designs, drawings, plans and specifications and the construction, inspection and supervision of engineering works, in respect of—

(a) railways, aerodromes, bridges, tunnels and metalled roads;

(b) dams, canals, harbours, light houses;

(c) works of an electrical, mechanical, hydraulic, communication, aeronautical power engineering, geological or mining character;

(d) waterworks, sewers, filtration, purification and incinerator works;

(e) residential and non-residential buildings, including foundations framework and electrical and mechanical systems thereof;

(f) structures accessory to engineering works and intended to house them;

(g) imparting or promotion of engineering education, training and planning, designing, development construction, commissioning, operation, maintenance and management of engineering works in respect of computer engineering, environmental engineering, chemical engineering, structural engineering, industrial engineering, production engineering, marine engineering and naval architecture, petroleum and gas engineering, metallurgical engineering, agricultural engineering, telecommunication engineering, avionics and space engineering, transportation engineering, air-conditioning ventilation, cold storage works, system engineering, electronics, radio and television engineering, civil

engineering, electrical engineering, mechanical engineering and biomedical engineering etc;

(h) organizing, managing and conducting the teaching and training in engineering universities, colleges, institutions, Government colleges of technology, polytechnic institutions and technical training institutions;

(i) preparing standard bidding or contract documents, construction cost data, conciliation and arbitration procedures; guidelines for bid evaluation, prequalification and price adjustments for construction and consultancy contracts; and

(j) any other work which the Council may, by notification in the official Gazette, declare to be an engineering work for the purposes of this Act;

8. Registered Engineer is defined in Section 2(xxvii) as follows:

"registered engineer" means a person who holds an accredited engineering qualification, whether working privately or in the employment of an engineering public organization and is registered as such by the Council. Registered Engineer shall perform all professional engineering works except independently signing design.

9. Section 10(1) of the PEC Act provides:

"The engineering qualifications granted by engineering institutions in Pakistan which are included in the First Schedule shall be the accredited engineering qualifications for the purposes of this Act."

10. While section 11(1) provides:

"The engineering qualifications granted by engineering institutions outside Pakistan which are included in the Second Schedule shall be accredited engineering qualifications for the purposes of this Act."

11. Section 27 of the PEC Act provides for penalties and procedure, which is as follows:

"27. Penalties and procedure.— (1) After such date as the Federal Government may, after consultation with the Council, by notification in the official Gazette, appoint in this behalf, whoever undertakes any professional engineering work shall, if his name is not for the time being borne on the Register, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) After the date appointed as aforesaid, whoever employs for any professional engineering work any person whose name is not for the time being borne on the Register shall be punishable, on first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and on a second or subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

(3) Whoever willfully procures or attempts to procure himself or itself to be registered under this Act as a registered engineer, professional engineer, consulting engineer, constructor or operator by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, and any person who assists him therein shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(4) Whoever falsely pretends to be registered under this Act, or not being registered under this Act, uses with his name of title any words or letters representing that he is so registered, irrespective of whether any person is actually deceived by such pretence or representation or not, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(5) No person undertaking any professional engineering work shall, unless he is registered under this Act, be entitled to recover before any court or other authority any sum of money for services rendered in such work.

(5A) No person shall, unless registered as a registered engineer or professional engineer, hold any post in an engineering organization where he has to perform professional engineering work.

(6) No court shall take cognizance of any offence punishable under this Act save on complaint made by, or under the authority of, the Council.

(7) No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act."

12. The main gist of the arguments of the learned ASC appearing for the petitioners is that the work of Executive Engineer BS-18 is strictly that of a Professional Engineer and it can only be performed by a Professional Engineer, who has engineering degree from an Accredited Engineering Institution of Pakistan or abroad as included in the first and second schedule of the PEC Act, Diploma holders and B.Tech



(Hons) Degree holders are not professional engineers and cannot perform work of a Professional Engineer and that law specifically provides penalties to those who perform professional engineering work without possessing accredited engineering qualification and registered as Professional Engineer by the Pakistan Engineering Council (the Council).

13. On the other hand, learned ASC appearing for the respondents have contended that this very issue has come up before this Court number of times and this Court has dealt with it time and again and held that in the matter of employment and promotion etc, the Government Institutions are legally entitled to take decisions as a matter of policy to grant promotion to employees in Engineering Public Organization who are Diploma holders in engineering and B.Tech (Hons) Degree holders.

14. We have noted that the Tribunal in the impugned judgment has referred to number of judgments of this Court and the point in issue in those judgments substantially also deals with the present controversy before us. Thus before dilating upon the matter, it is essential that we examine the judgments, which this Court has already delivered and are also referred in the impugned judgment of the Tribunal. The first case in line is a judgment of three members bench of this Court in the cases of PAKISTAN DIPLOMA ENGINEERS FEDERATION (REGISTERED) THROUGH ITS CHAIRMAN V/s FEDERATION OF PAKISTAN THROUGH SECRETARY MINISTRY OF WATER & POWER, GOVERNMENT OF PAKISTAN, ISLAMABAD & 9 OTHERS (1994 SCMR 1807). In this case the question involved was whether the Diploma Engineers employed in Pakistan Railways can be debarred from promotion to Grade-18 on the

ground that they are not registered as "professional engineers and consulting engineers" with Pakistan Engineering Council. Even though they were otherwise by reasons of their seniority etc eligible for promotion to Grade-18. While referring to the case of MUHAMMAD AZIM JAMALI AND 11 OTHERS V/S GOVERNMENT OF PAKISTAN, THROUGH SECRETARY/ CHAIRMAN, MINISTRY OF RAILWAYS, AND 33 OTHERS (PLJ 1992 Karachi 1) = (1992 PLC(CS) 637), where split decision was given by two Hon'ble Judges of Sindh High Court and ultimately it was referred to a Referee Judge for his opinion. This Court in dealing with the case before it relied upon the conclusion reached by the Referee Judge and quoted the same in the judgment as follows :

"16. The conclusion of the learned Chief Justice was expressed as follows:

"A careful reading of subsections (1) and (2) of section 27 of the Act will show that the penalties prescribed in the section are attracted only against those persons who are not registered under the Act but undertake any professional engineering work as defined in the Act. Similarly, the person who employs a person who is not registered under the Act, on a professional engineering work, is equally liable for punishment under the Act. The above provisions are wide enough to include the cases of those persons who may be employed in any private or Governmental organization and are called upon to undertake any professional engineering work. The provisions of the Act, regarding registration of professional engineer and consulting engineer, therefore, in my view, would not be applicable to the persons serving as engineer with the Railways, as in course, of their such employment they neither act as 'professional engineer' nor as 'consulting engineer'. However, if such persons undertake any professional engineering work as defined under the Act, then the provisions regarding registration under the Act will be attracted and they could also be punished in accordance with the provision of section 27 of the Act for violating the provision of the Act."

15. On the basis of such conclusion of the Referee Judge, this Court proceeded to make its own observation, which is as follows:

17. The above judgment of the High Court was not challenged either by the qualified engineers who held degrees from recognized Institutions of Pakistan nor by the diploma-holders but only by the Pakistan Engineering Council (which was one of the respondents in the Constitution Petition filed in the High Court). According to the Pakistan Engineering Council, the provisions of the Pakistan Engineering Council Act had not been correctly interpreted because the judgment of the majority in the High Court, it appeared to the Council had laid down that the Act applied to engineers engaged in professional engineering works in the private sector whereas the application of provisions of the Act according to them, could not be restricted only to the private practitioners alone.

18. We on the other hand after hearing Mr. Abid Hassan Minto learned Advocate for the appellant at considerable length consider that this is not a correct interpretation of the judgment of the High Court. The High Court has clearly stated that the provisions of the Act were wide enough to include cases of those persons engaged in professional engineering works whether employed in any private or Governmental organization, if they are called upon to undertake any professional engineering work, as defined under the Act. In fact in the connected case C.A.No.31 of 1992 a Committee of Secretaries constituted by the Punjab Government correctly summed up the true position obtaining in the Act as follows:--

"The Committee was of the view that the Government could appoint a non-graduate engineer to a post in any grade but if the post involved performance of professional engineering work such appointment would attract penalties prescribed in the Act.

The finding of the Referee Judge in this case is to the same effect and in our opinion this finding is quite correct."

16. The next case in line is a judgment of five member bench of this Court in the case of EIDA HUSSAIN V/S THE SECRETARY, KASHMIR AFFAIRS AND NORTHERN AFFAIRS DIVISION, ISLAMABAD & ANOTHER (PLD 1995 Supreme Court 701). In this case facts were that petitioner was appointed as Overseer/Sub-Engineer in northern area PWD in

1971. The Federal Government, in order to encourage the diploma holders to improve their academic qualification resolved to prescribe courses namely B.Tech (Pass) and B.Tech (Hons). The later was treated as equivalent to B.Sc. (Engineering) and Bachelor of Engineering for the purpose of promotion. Petitioner having passed B.Tech (Pass) and B Tech (Hons) was denied promotion in BPS-17 for the reasons that D.Tech (Hons) was not recognized by Pakistan Engineering Council as equivalent to B.Sc. (Engineering) Degree. Petitioner filed Service Appeal, which was dismissed. The Appeal filed by the petitioner before this Court was also dismissed. The petitioner then applied for review, which was allowed and the judgment dismissing the Civil Appeal was recalled and his appeal was allowed with directions to consider the petitioner's case of promotion to BS-17. The Court while allowing relief to the petitioner observed as follows:

9. In this regard, we may point out that it is the domain of the Government concerned to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one Grade to another higher Grade and whereas it is in the domain of the Pakistan Engineering Council to decide, as to whether a particular academic qualification can be equated with another academic qualification, but it has no power to say that the civil servants/employees holding particular academic qualification cannot be promoted from a particular Grade to a higher Grade. The main object of the Act as pointed out by one of us (Ajmal Mian, J.) and Saluzzaman Siddiqui, C.J. (as he then was) in the above High Court judgment is to regulate the working of professional engineers and consulting engineers and not to regulate the qualification or the working of the engineers in the Government or semi-Government departments. The definitions of the terms "professional engineer" and "professional engineering work" given in clauses (j) and (k) of section 2 of the Act are to be read together and, therefore, as a corollary to the same, it must follow that the term "professional engineering work" as defined in clause (k) of section 2 of the Act is to be performed by a professional engineer as defined in clause (j) thereof, which is evident from section 8 of the Act, which defines the functions of the Pakistan Engineering Council as under:-

8. Functions of the Council--- The following shall be the functions of the Council, namely:--

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- (a) maintenance of a Register of person qualified to practice as professional engineers and consulting engineers;
  - (b) recognition of engineering qualifications for the purpose of registration of professional engineers and consulting engineers;
  - (c) removal of names from the Register and restoration to the Register of names which have been removed;
  - (d) laying down of standards of conduct for the members;
  - (e) safeguarding the interest of the members;
  - (f) promotion of reforms in the engineering profession;
  - (g) management of the funds and properties of the Council;
  - (h) Promotion of engineering education and review of courses of studies in consultation with the Universities;
  - (i) levy and collection of fees from applicants for registration or temporary licences and members;
  - (j) exercise of such disciplinary powers over the members and servants of the Council as may be prescribed;
  - (k) formation of such committees as may be prescribed; and
  - (l) performance of all other functions connected with, or ancillary or incidental to, the aforesaid functions."

A perusal of the above quoted section shows that the Pakistan Engineering Council is vested with the functions to regulate the persons qualified to practice as professional engineers and consulting engineers and not persons who are employed in the Government or semi-Government organisations. If the Government employs a professional engineer as defined in the Act for performing professional engineering work as envisaged by the Act in above clause (k) of section 2, the provisions of the Act would be attracted and not otherwise.

10. Reverting to the merits of the present case, as pointed out hereinabove, that the petitioner pursuant to the above decision of the Government of Pakistan dated 26.10.1973 passed his B.Tech (Pass) in 1977 and B.Tech (Honours) in March, 1981, from the NED University Karachi, and, therefore, acted upon the above representation of the Government. In this view of the matter, it is not just and fair not to consider the petitioner

for promotion to BPS-17 keeping in view the admitted fact that a number of other civil servants/employees in the same department in the same position have been promoted by the departments/organisations concerned. In this behalf, it may be pertinent to refer to the case of Mukhtar Ahmad and 37 others v. Government of West Pakistan through the Secretary, Food and Agriculture, Civil Secretariat, Lahore and another (PLD 1971 SC 846). The fact of the above case were that the persons possessing the qualifications mentioned in Rule 7 of the West Pakistan Agricultural Engineering Service (Class II) Rules, 1963 were not available. The Government launched a scheme for training of Assistant Agricultural Engineers, whereunder 46 Graduates in B.Sc. Agriculture were to be selected for appointment as Assistant Agricultural Engineers after their successful completion of two years' diploma course at an Agricultural University. The above scheme was discussed by the government with the Public Service Commission. The candidates selected by the Public Service Commission, who were about to complete their training of two years, were informed by the government that they would have to appear again before the Public Service Commission to be selected for appointment to the posts of Assistant Agricultural Engineers (Class-II). The candidates asserted that after the completion of their training they were entitled to be appointed as Assistant Agricultural Engineers (Class-II) in terms of the offer made to them and they could not be required to appear again before the Public Service Commission for such appointment. On the other hand, the Government contended that the candidates did not possess the qualification prescribed by Rule 7 of the West Pakistan Agricultural Engineering Service (Class II) Rules, 1963, for appointment to such posts. The matter came up for hearing before this Court in the form of an appeal with the leave of this Court filed by the candidates against the judgment of a Division Bench of the erstwhile High Court of West Pakistan. The same was allowed and inter alia the following was concluded:--

"The offer of the Government and its acceptance by the appellants constituted a valid agreement and they Governor's order dated the 1<sup>st</sup> July, 1965 provided the authority for such an agreement. This agreement is capable of being enforced in law. The Government was both competent and obliged to implement that agreement. When the Governor's order, dated the 1<sup>st</sup> July, 1965, provided a special authority for recruitment to the 46 posts of Assistant Agricultural Engineers, rule 7 of the Recruitment Rules was not applicable in this case."

11. The above case supports the petitioner's stand. Another aspect which escaped notice of this Court in the judgment under review is that some of the other civil servants/employees placed in the same position as the petitioner was had been considered for promotion to BPS-17 and in fact were promoted, whereas the petitioner was

denied the above benefit which amounted to violation of Inter alia Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973. In this regard, reference may be made to the case of J.A. Sherwani and others v. Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041).

12. The judgment of this Court in the case of Muhammad Siddique Nasim (supra), relied upon by the Tribunal is distinguishable for more than one reason, firstly, in the above case the notification of the Government of Punjab dated 8.2.1961 equalling B.Tech (Honours) with B.Sc Engineering degree was withdrawn on 15.03.1985, whereas the petitioner received degree of B.Tech (Honours) in June, 1985, i.e. after the withdrawal of the notification whereas in the present case, admittedly the petitioner passed his B.Tech (Honours) in March, 1981, before the Pakistan Engineering Council through its Registrar's above letter dated 24.4.1984 stated that there was typographical error in the above-quoted portion of its Registrar's letter dated 30.04.1981. Secondly, in the judgment in the case of Pakistan Diploma Engineers Federation (Registered) through its Chairman (supra), this Court affirmed the majority view of the High Court of Sindh in the case of Muhammad Azim Jamali (supra), in which it has been held that the provisions of the Act are applicable only to professional engineers and consulting engineers who are in practice and not to the persons working in the Government departments, autonomous bodies, local authorities and private firms or companies.

13. We may again observe that it is exclusively within the domain of the Government to decide whether a particular qualification will be considered sufficient for promotion from a particular Grade to a higher Grade and it is also within the domain of the Government to change the above policy from time to time as nobody can claim any vested right in the policy. However, it cannot abdicate its power to decide the above question in favour of a corporate body which is not in its control nor it can act in a manner which may be violative of Article 25 of the Constitution on account of being discriminatory. It is still open to the Government for future to provide that academic qualification of B.Tech (Honours) will not be considered sufficient for promotion from BPS-16 to BPS-17 if the same does not violate the above principle.

17. Next case is a judgment of two members bench of this Court in the case of MUHAMMAD YOUNUS AABAIN V/S PROVINCE OF SINDH THROUGH CHIEF SECRETARY, SINDH, KARACHI & 10 OTHERS (2007 SCMR 134). The case before the Court was of promotion to BS-20 by a Diploma holder employee. The Court dealt with the subject and observed as follows:

*Power of Govt.:-  
entirely to delegate  
its power to any other authority  
no discrimination.*

7. The basic qualification for a professional engineer under the law is B.Sc. degree in engineering from a recognized institution in Pakistan and diploma in engineering is not a recognized qualification for a professional engineer in terms of PEC Act, 1976. The service rules governing the service of the petitioner (SCUG Service Rules, 1982) and the promotion policy of the Government of Sindh, would neither override the provisions of the above Act nor relax the requirement of basic qualification of professional engineer for a promotion to BPS-20 in the engineering branch of Government of Sindh. The relevant provision of SCUG Service Rules, 1982, is reproduced hereunder:--

**"V-Engineering Branch.**

1. Grade 20 By selection on merit from among the members of the service in Grade-19 of the Engineering Branch with at least 17 years experience as such in Grade-17 and above."

8. The above rule envisages clearly that a person can be considered for promotion to BPS-20 in the Engineering Branch of Government of Sindh, subject to fulfilment of the condition of basic qualification of a professional engineer prescribed under Pakistan Engineering Council Act, 1976 and a diploma holder being not a professional engineer in terms of PEC Act, 1976 cannot hold a post carrying responsibilities of a qualified professional engineer. The eligibility of a person for promotion from BPS-19 to BPS-20 in the Engineering Department of Government of Sindh is subject to the fulfilment of the requirement of basic qualification with requisite experience as provided in SCUG Service Rules, 1982 in the relevant field therefore, neither any concession could be given to the petitioner in the matter of his eligibility to hold the post in BPS-20 nor the requirement of basic qualification could be relaxed by the Court or by Selection Board. The careful examination of rules on the basis of which petitioner asserted the claim of promotion to BPS-20 against the post carrying responsibilities of a professional engineer, would show that his claim was without any substance and that a diploma holder on the basis of his experience alone, would stand at par to a person registered as professional engineer with Pakistan Engineering Council."

cust 7 DAE  
not to B-20

15. The other case is a judgment of three members bench of this Court in the case of NAZIR-UL-HASAN & 2 OTHERS V/S SYED ANWAR IOBAL & OTHERS (2014 SCMR 1827). In this case, respondent No.1 was working as an Assistant Director BS-17. The petitioners were senior to him and were promoted to BS-18 despite the fact that petitioners were holding qualification of Diploma whereas respondent



No.1 was Bachelor of Engineering (Electrical). The respondent No.1 challenged the promotions of petitioners in the High Court. The High Court set aside all promotions of petitioners on the ground that they did not hold valid engineering degree. This Court in the reported judgment has dealt with the matter and observed as follows:-

6. Admittedly the petitioners were Assistant Directors in the respondent Authority with at least 5 years service in the relevant field and hence in our opinion they fulfill the requirement. It would be seen that when the petitioners were considered for promotion in 2012 the rules in force were the Pakistan Standards Institution Recruitment Rules for class one posts wherein per rule 5 the post of deputy Directors to be filled in by promotion could be done from amongst Assistant Directors category one with at least 5 years service in the Institution. Nowhere in the said rules was it provided that they would be professional engineers or for that matter even diploma holders. If fact such condition is prescribed in rule 6 which provides for direct appointments whereby per the schedule to the same an Assistant Director must hold a Master's Degree in Science or Bachelors Degree in Engineering in the specified field from a recognized university with at least 3 years experience in that field etc. Admittedly, the petitioners were appointed by promotion and hence in our opinion no such condition can be placed upon them as in the case of a direct appointees. Insofar as the case of Muhammad Younus Aarain (supra) is concerned, the same is distinguishable on facts as therein it was found that under Sindh Council Unified Grades Services Rules the basic qualification for promotion to BS-20 was that the candidates should have B.Sc. Degree in Engineering. As observed above this is not the case in the present matter. It would further be seen that now per section 26 of the Pakistan Standards and Quality Control Authority Act, 1996 rules have been framed which have been notified in the official gazette on 15<sup>th</sup> May, 2013. Under Rule 5 promotion to the post in BS-1 to 19 shall be made on the basis of seniority-cum-fitness etc. and he or she should also fulfill the conditions contained in schedule to the rules according to which for promotion to the post of Deputy Director Technical the eligible person would be an Assistant Director Technical and he should have 5 years experience in BS-17 in technical matters. Nowhere has it been prescribed that he or she should be a qualified engineer.

7. In the circumstances, we find that the impugned order has unnecessarily been influenced by the comments of the Pakistan Engineering Council that no post carrying any Engineering responsibility could be entrusted to non-engineering graduates. In our opinion, it is for the department/Institution itself to determine as to whether the persons in its service are fit to hold a particular position. In the present case it has been done by the

authority and rules have been framed thereunder which have been followed by the promotes/petitioners. Consequently the impugned order is set aside and the promotion of the petitioners is upheld."

19. On examination of above case law, we note that nowhere in the judgments, the government power to prescribe for qualification and other conditions of service for promotion to a post has been assailed nor the judgments have put any sort of embargo on the government in prescribing the qualification and other conditions of service for a post for the purpose of promotion. Having said this, the judgments as discussed above, have rather focused on the government power in this regard to be unfettered to the extent that it is not in derogation of any law or provisions of the Constitution.

20. Further, the main principle that is deductible from the above judgments of this Court is that it is the domain of the Government to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one grade to another higher grade and whereas it is in the domain of the Pakistan Engineering Council to decide whether a particular academic qualification can be equated with another academic qualification but it has no power to say that the civil servants/employees holding particular academic qualification cannot be promoted from a particular grade to a higher grade. Thus on the basis of above pronouncements of this Court, it is clear that the notification dated 19.03.2014 cannot be validly or justifiably challenged on the ground that it impinges or infringes upon any of the provisions of PEC Act, 1976 and thus would be ultravires. No such finding can justifiably be recorded in that as it has been laid down quite empathetically that the government exercises its own power under the domain of law with regard to promotion of civil

servants/employees under Sindh Civil Servants Act, 1973 and Rules made thereunder while PEC Act does not overreach or put an embargo upon the government in the matter of prescribing of qualification and other conditions of service of civil servants/employees for their promotion to higher grade. Yet again, we note that although the vires of notification dated 19.03.2014 has been challenged but we observe that this very notification has been issued under sub-rule (2) of Rule 3 of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, which rules have been made under section 26 of Sindh Civil Servants Act, 1973. Neither rule 3(2) of said rules nor section 26 of the Act, 1973 have been challenged nor their vires called in question before us. Thus from this also it is quite apparent that the petitioner does not challenge the government power for prescribing qualification and conditions of service of civil servants/employees for their promotion to higher grade. In any case, we note that the provisions of PEC Act nor the rules and regulations made under it will operate as bar on government to prescribe for qualification and other conditions of service of civil servants/employees for promotion to higher grade.

21. The PEC Act as its preamble itself shows so also reading of the whole Act shows that it essentially deals with regulations of engineering profession. In it, *inter alia*, it prescribes for qualification of professional engineers, maintenance of register of professional engineers and accrediting of engineering universities etc and not as a regulator of employment be that be of government service or in the private service. The reasons for it could be found that all sort of engineering work could not be and may not be a professional engineering work for performance of which professional engineers are required. For example, technician, mechanic, draftsman, foreman,

supervisor and overseer etc at best could be a skilled workman who may work independently or under the supervision of professional engineer and for such technician, mechanic, draftsman, foreman, supervisor and overseer, <sup>etc</sup> the employer may not require holding of professional engineering degree. However, if the person is required to perform any of professional engineering work as defined under the PEC Act, the provisions of this Act will come into operation for ensuring as the work of professional engineer can and only be performed by professional engineer as recognized by PEC Act. The professional engineering work has been clearly defined under section 2(xxv) of the PEC Act which has already been reproduced above and lays down in sufficient details the works which are noted to be as professional engineering works and such works as mandatorily required by the PEC Act to be performed by a professional engineer possessing accredited engineering qualification from accredited engineering institutions in Pakistan and abroad with experience and passing of test of the Council and no other person is allowed to perform professional engineering works be that be a diploma holder or B.Tech. degree holder. This aspect of the matter has been substantially addressed by the PEC Act itself when making provision of section 27(5A) that "no person shall unless registered as a registered engineer or professional engineer, hold any post in an engineering organization where he has to perform professional engineering work." Thus professional engineering work can only be performed by a person who is registered as registered engineer or professional engineer and both registered engineer and professional engineer in terms of the PEC Act are by law required to possess accredited engineering qualification as prescribed by the PEC Act from accredited engineering institution.

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22. We may further observe that section 27 of the PEC Act provides for penalty for a person who undertakes any professional engineering work if his name is not borne on the Register but it also makes the employer who employs for any professional engineering work any person whose name is not, for the time being, borne on the Register to perform professional engineering work, shall also be liable for penalty as proscribed in the PEC Act itself. Thus both civil servant/employee and their employer would be liable to penalty as provided under section 27 if they undertake or allow a person to undertake professional engineering work whose name is not borne on register under PEC Act.

23. The net result of above discussion is that this petition is dismissed and leave refused, however with note of caution that government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as a registered engineer or professional engineer under the PEC Act.

RECORDED  
INDEXED  
APPROVED FOR REPORTING

JUDGE

JUDGE

Announced in open Court on 03-19-2018

... ..

**IN THE PESHAWAR HIGH COURT PESHAWAR**

W. P No. \_\_\_\_\_/2021

1. Aman Ullah S/O Hamesh, Sub Divisional Officer
2. Niaz Badshah, Sub Divisional Officer Irrigation sub division Charsadda.
3. Saif Ullah, Deputy Director at Jabba Dame
4. Javed Ahmad, Sub Divisional Officer Irrigation sub division Swabi
5. Muhammad Shoib, Sub Divisional Officer Irrigation sub division Haripur.
6. Khurshid Ahmad, Assistant Director Small Dam Abbottabad.
7. Jahan zeb, Assistant Director PHLC Swabi

**(Petitioners)****VERSUS**

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Civil secretariat Peshawar.
2. Additional Chief Secretary P & D, Khyber Pakhtunkhwa Civil Secretariat Peshawar.
3. Government of Khyber Pakhtunkhwa through Secretary Irrigation Civil Secretariat Peshawar.
4. Government of Khyber Pakhtunkhwa through Secretary Establishment Civil Secretariat Peshawar.
5. Government of Khyber Pakhtunkhwa through Secretary Finance Civil Secretariat Peshawar.
6. Government of Khyber Pakhtunkhwa through Secretary Law Department Civil Secretariat Peshawar.

**(Respondents)**

**WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF THE ISLAMIC REPUBLIC  
OF PAKISTAN, 1973.**

**Prayer in Writ Petition:**

On acceptance of this Writ Petition an appropriate writ may please be issued declaring the acts and omission of the respondents by bulldozing the due process of amendments in reservation of Promotion quota for B.Tech Degree holders and DAE Diploma Holders, carried out in accordance with law and laydown procedure by placing the same to the committee which already finalized/notified by the competent authority is illegal, unlawful, without lawful authority and violative upon the rights of the petitioners, the honorable court may also declare the due process of amendment is done in accordance with law by fulfilling all the legal and codal formalities, furthermore respondents may also be direct to do the needful for publication of the notification in the official gazette if so required under the law. Or any remedy deem just and proper under the circumstances may also be allowed in favour of the Petitioners and against the respondents.

**Respectfully Submitted:**

1. That petitioners are the law abiding citizen of Pakistan and having every rights guaranteed by the constitution of Islamic Republic of Pakistan 1973.
2. That the petitioners are performing their duties as Assistant Engineer BPS-17 in the respondent department and performing their duties with great zeal and devotion to the entire satisfaction of their superiors without any complaint whatsoever regarding their performance.

3. That there was no promotion quota for the B.Tech degree holders and (DAE) diploma holders in the department who were performing their duties in a capacity of Assistant Engineers BPS-17 to Executive Engineers BPS-18 as they have no future prospects of promotion from BPS-17 to BPS-18.
4. That the Assistant Engineers BPs-17 submitted representation /application for reservation of promotion quota for B.Tech Degree holders and (DAE) Diploma Holders in the light of judgment dated 03.10.2018 of the Honourable Supreme Court of Pakistan in case titled Maula Bux vs Govt of Sindh and also on the analogy of different department of Sindh and Punjab Government. *(Copy of the representation and judgment dated 3.10.2018 are attached as annexure A & B).*
5. That the application/appeal of the petitioners was processed and a note was placed before the worthy Chief Secretary Khyber Pakhtunkhwa regarding the reservation of promotion quota from BPS-17 to BPS-18 for B.Tech Degree and Diploma Holders, upon which the chief secretary form a committee i.e. Standing Service Rules Committee, the establishment department upon the note of the worthy chief secretary recommended its placement before the Standing Service Rules Committee (SSRC), vide dated 29.04.2021 the committee/forum, after detailed discussion from various dimensions of career progression as well as abiding by the principle of equality and recommended for promotion to the next higher grade/post.
6. That Standing Service Rules Committee recommended the promotion to the higher grade by awarding 20% quota for promotion from BPS-17 to BPs-18 by giving future prospects of Promotion as 12% were reserved for B.Tech Degree holders and 8% reserved for Diploma Holders.
7. That before issuing minutes of the meeting of the SSRC, the BSc Engineers submitted the formal representation and protested against the decision of the committee, the Secretary Irrigation moved a note to the worthy chief secretary regarding



the reservation of quota under the TOR to review the decision of SSRC meeting, the proposed recommendation for the reserving quota of the deprived cadre of B.Tech and DAE working in various works department of the province and request for approval by constituting a committee under the chairmanship of Secretary Establishment. *(Copy of the note dated 17.06.2021 and minutes of the meeting of SSRC are attached as annexure C & D)*

8. That upon the note of Secretary Irrigation to the Worthy Chief Secretary the Establishment Department examine and further submit a note to the worthy chief Secretary regarding the reservation of quota for B.Tech Degree holders and DAE Diploma Holders, the administrative department proposed not to finalize the recommendation of the SSRC Committee and to constitute another committee to adjust the issue, whereas under Rule 3 (2) of the Khyber Pakhtunkhwa APT Rules 1989, stipulates the method of appointment qualification and other eligibility criteria for the post shall be such as laydown by the department concerned in consultation with the services and general administration department and the finance department and decline/did not support the proposal of the administrative department for the constitution of the new committee. *(Copy of the note dated 16.07.2021 is attached as annexure E).*
9. That the respondent department through Secretary Irrigation further move the note to the secretary Establishment for amendment in the existence service rules of irrigation department for approval of amendments in the light of the recommendation of SSRC duly vetted by the law department, the Establishment department in the light of instructions for amendment in the service rules of irrigation department duly recommended by the SSRC and vetted by Law Department approved the same under the standing procedure. *(Copy of the letter dated 11.08.2021 and 17.08.2021 are attached as annexure F & G).*

10. That in the light of the above recommendation and approval of the competent authority in accordance with law, rules and procedure the amendment was made and notified by the secretary irrigation in consultation with the establishment and finance department vide notification dated 24.08.2021. *(Copy of the notification dated 24.08.2021 is attached as annexure H).*

11. That the Secretary C & W who is BSc Engineer by qualification malafidely being biased on the subject matter as the issue relates to the BSc Engineers and B.Tech and Diploma Holders and their reservation of quota for promotion moved a biased note to the worthy Chief Secretary to revisit his earlier decision and to constitute another committee by challenging the competency of the approved recommendation of the competent forum/authorities in all aspects and also not to finalize or to notified the same in the official gazette. *(Copies of notification dated 07.09.2021 and note dated 31.08.2021 are attached as annexure I & J)*

12. That the Petitioners have not been dealt in accordance with law and malafidely with biased intention depriving the petitioners from their due right of promotion in accordance with law and having no other adequate and alternate remedy available in law is constrained to invoke the constitutional jurisdiction of this Honourable Court inter-alia on the following ground.

**GROUND'S OF WRIT PETITION:**

- A. That the Petitioners have not been treated in accordance with law and their rights secured and guaranteed under the law have been badly violated.
- B. That the amendment in service rules has made by the competent authority i.e. on the recommendation of SSRC which is duly approved by the competent authority while taking into consideration all the legal and required aspects for such reservation of Promotion quota, and the amendment was made after following all the legal and codal formalities.

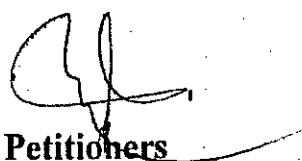
- C. That there was no future prospects of the Assistant Engineer BPS-17 of B.Tech Degree holders and DAE Diploma Holders to the next higher post of BPS-18 and they served the respondent department with all their capabilities since decades, which compel the respondents on amendments but now taking back the decision is against the law, violative upon the rights of the petitioners.
- D. That the Secretary C & W who is BSc Engineer by qualification malafidely being biased on the subject matter as the issue relates to the BSc Engineers and B.Tech and Diploma Holders and their reservation of quota for promotion moved a biased note to the worthy Chief Secretary to revisit his earlier decision and to constitute another committee by challenging the competency of the approved recommendation of the competent forum/authorities in all aspects and also not to finalize or to notified the same in the official gazette, which is illegal unlawful and against the law and violative upon the rights of the petitioners
- E. That the amendment so made in accordance with Rule 3(2) of the Khyber Pakhtunkhwa Civil Servant APT Rules 1989. Which stipulates that the method of appointment/qualification and other condition applicable to a post shall be such as laid down by the department concerned in consultation with the services and general administration department and the finance department.
- F. That the amendment so made in the promotion quota from the post of Assistant Engineer BPS-17 to Executive Engineers BPS-18 was duly amended with the consultation of the Establishment Department and Finance department, vetted by the law department as well as recommended by the forum competent for such matter i.e. SSRC duly attend the finality as approved by the competent authority and having its legal binding force.

- G. That the words used in the notification left no doubt that it was issued under Rule 3 (2) of APT Rules 1989, it is rather unjust and even unrealistic to treat such notification as administrative instruction and can be struck down at any time when it takes its legal effect and gets finality, when it is admittedly rescinded and replaced by the existing mode of promotion.
- H. That the Honourable Supreme Court of Pakistan in its reported judgment 2017 SCMR Page 2066 head note "D"  
*"Non publication in the official gazette failure to have the notification published in the official gazette would not shear it of its statutory status"*
- I. That the process carried out for amendment while deserving quota for the B.Tech Degree and DAE Diploma Holders was done perfectly in accordance with law, rules and the laydown procedure, the inaction of the respondents seems to be a result of extreme malafide and biased intention and designed to promote favorites who are already enjoying much space for their promotion i.e. 80% quota, thus the decision to bulldoze the already due process done in accordance with law so made has no legal sanctity.
- J. That the decision of the respondent to deprive the petitioners of their genuine need of promotion in an unjust, arbitrary and illegal manner is a constitutional guarantee of every citizen.
- K. That the mandate of the administrative department to frame rules to streamline and strengthen service requirements of departments and employees and the government business should not be used for the personal favor/agendas of an individual or service group.
- L. That the Petitioners seek the permission of this Honourable Court to rely on additional grounds at the hearing of the instant Petition.

**INTERIM RELIEF:**

By way of interim relief the respondents may kindly be restrained from withheld the recommendation of SSRC and notification of amendment till the final decision of this Writ petition.

It is, therefore, prayed that on acceptance of this Writ Petition an appropriate Writ as prayed for in the heading of this Petition may please be issued in favour of the Petitioners and against the respondents.



Petitioners

Through

**ZARTAJ ANWAR**  
Advocate Peshawar

&

**IMRAN KHAN**  
Advocate Peshawar

**Certificate:**

Certified that no writ petition on the same subject and between the same parties has been filed previously or concurrently.



Petitioner