

11.04.2023

Junior to counsel for the appellant present. Mr. Asif Masood
Ali Shah, DDA for the respondents present.

Former requested for adjournment on the ground that learned
counsel for the appellant is busy before the Hon'ble Peshawar High
Court, Peshawar today. Adjourned. To come up for arguments on
26.05.2023 before the D.B. Pareha Peshi given to the parties.

SCANNED
KPST
Peshawar



(FAREEHA PAUL)
Member(E)



(ROZINA REHMAN)
Member (J)

02.12.2022

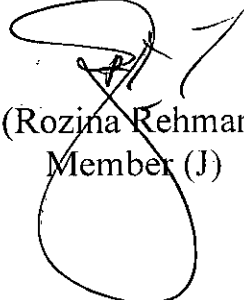
Counsel for the appellant present.

Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Reply on behalf of respondents have already been submitted. To come up for arguments on 01.02.2023 before D.B.

SCA
K
Peshawar


Rs-100/-
Appellant Deposited
Security & Process Fee
A. J. J. 05/12/22



(Rozina Rehman)
Member (J)

1st Feb, 2023

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant wants to submit rejoinder. He may do so within a week. Adjourned. To come up for arguments on 11.04.2023 before D.B.


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman

03.11.2022

Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

Learned Additional AG sough further time for submission of written reply. Adjourned on payment of cost of Rs. 3000/- to be paid by the respondents. To come up for written reply/preliminary arguments on 11.11.2022 before S.B.

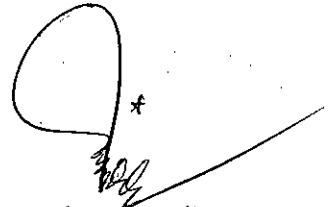


(Rozina Rehman)
Member (J)

11.11.2022

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Albert David, Superintendent for the respondents present.

Reply/comments on behalf of respondents submitted which are placed on file. To come up for preliminary hearing before the S.B on 02.12.2022. Notice be issued to the appellant as well as his counsel on the date fixed.



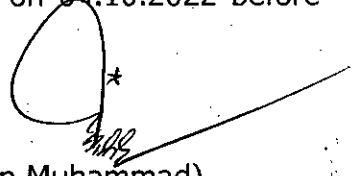
(Mian Muhammad)
Member (E)

SCANNED
KUT
Peshawar

Handwritten notes on the left margin: "11-11-22" and "Nemo for appellant" with a signature.

31.08.2022

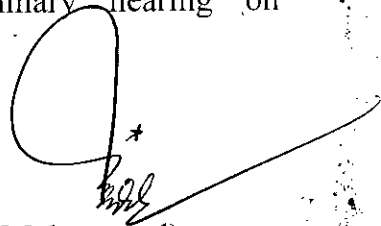
Mr. Arbab Saiful Kamal, Advocate for the appellant present. Arguments of the learned counsel for the appellant heard at the stage of preliminary hearing who contended that the appellant is basically aggrieved of the vires of the service rules framed by the respondent department and notified on 14.12.2021. At serial No. 5 of the said service rules the mode for filling the post of Secretary has been determined and reserved at the ratio of 65% by transfer from amongst the holders of the post of PMS Officers and 35% by promotion from Computer Operators (BS-16) with atleast 7 years service. Feeling aggrieved, the appellant submitted departmental appeal on 25.12.2021 followed by another representation dated 25.01.2022 and 17.02.2022 which were not responded by the departmental authority hence the instant service appeal was instituted in the Service Tribunal on 27.04.2022. When the point regarding the second/third departmental appeal was raised which is not admissible under the Khyber Pakhtunkhwa Civil Servants (Appeal Rules) 1986. Moreover, the delay of 02 days, was pointed out. Learned counsel for the appellant referred to various judgements of the Service Tribunal including a recent one in Service Appeal No. 1075/2019 titled Muhammad Rafiq Vs Government of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa Peshawar and others decided on 30.07.2021. At this stage, it deems appropriate to issue pre-admission notice to the respondents for submission of reply/comments. Adjourned. To come up for reply/comments as well as preliminary hearing on 04.10.2022 before S.B.


(Mian Muhammad)
Member (E)

04.10.2022

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Learned AAG requested for time to contact the respondents for submission of written reply/comments. Last chance is given. To come up for reply/comments and preliminary hearing on 03.11.2022 before S.B.


(Mian Muhammad)
Member (E)

13.05.2022

Learned counsel for the appellant present and requested for adjournment in order to further prepare the brief. To come up for preliminary hearing before the S.B on 20.07.2022.



(Kalim Arshad Khan)
Chairman

14th June, 2022

Clerk of counsel for the appellant present.

Counsel are on strike. To come up for preliminary hearing on 02.08.2022 before S.B.

**SCANNED
KPST
Peshawar**



(Kalim Arshad Khan)
Chairman

~~Appellant requested for adjournment on the ground that he has not prepared the brief. To come up for preliminary hearing on 11.08.2022 before S.B.~~

02.08.2022

Learned Member (Executive) is on leave. Therefore, the case is adjourned to 11.08.2022 for the same as before.



Reader

11.08.2022

Counsel for the appellant present and requested for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for preliminary hearing on 31.08.2022 before S.B




(Fareeha Paul)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 636/2022

S.No.	Date of Order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/04/2022	<p>The appeal of Mr. Dil Jan presented today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;">CHAIRMAN</p>
2-		

BEFORE THE KPK SERVICE TRIBUNAL PESHAWARS.A. No. 636 /2022

Dil Jan

versus

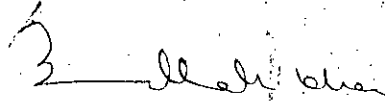
Secretary & Others

INDEX**SCANNED
KPST
Peshawar**

S. No.	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
2.	Notification dated 14-02-2021	"A"	5-9
3.	Representations dated 25-12-21 & 17-02-22	"B"	10-11

Appellant

Through


Saadullah Khan Marwat
Advocate
21-A, Nasir Mansion,
Shoba Bazaar, Peshawar

Dated 23-04-2022

Ph: 0300-5872676

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____/2022

Dil Jan S/O Jan Akbar,
 Computer Operator,
 Directorate of Public
 Safety Commission,
 Home Department,
 Peshawar..... Appellant

VERSUS

1. Secretary, Govt. of KP,
 Home and Tribal Affairs
 Department, Peshawar.
2. Standing Service Rules
 Committee (SSRC)
 through Chairman
 Provincial Safety
 Commission, Home
 Department, Peshawar Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST OFFICE NOTIFICATION NO. E & A (HD) 10-10 / 2021 DATED 14-12-2021 OF R. NO. 01 WHEREBY POST OF SECRETARY B-17 WAS FIXED TO BE FILLED (I) 65% BY TRANSFER FROM AMONGST THE HOLDER OF THE POST OF PMS OFFICERS B-17 AND (II) 35% BY PROMOTION ON THE BASIS OF SENIORITY CUM FITNESS AMONGST THE HOLDERS OF THE POST OF COMPUTER OPERATORS WITH AT LEAST SEVEN (07) YEARS SERVICE IN B-16 BY FIXING LESS QUOTA IN THE CATEGORY OF COMPUTER OPERATORS.

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respected Sir:

1. That appellant was initially appointed as Computer Operator in B-12 on 07-06-2011. In the year 2016, post of Computer Operator was upgraded to B-16.
2. That since the date of appointment of appellant as such, dedicated performances were given to the department and in this respect, his services were highly appreciated.
3. That prior to the rules in hand, the Government of KP, Home and Tribal Affairs Department issued Notification dated 14-02-2021 wherein in column No. V, post of Secretary B-17 is to be filled in:-
 - i. 65% by transfer from amongst the holders of the post of PMS Officers B-17; and
 - ii. 35% by promotion on the basis of seniority-cum-fitness amongst the holders of the post of Computer Operators with at least seven (07) years in B-16. (Copy as annex "A")
4. That in every rule of the each department, promotion quota was figured at S. No. 01, while Transfer quota was figured at S. No. 02 but in the case in hand, transfer quota was figured at S. No. 01 and that too with 65% by transfer to the post of Secretary B-17 amongst the holders of the post of PMS Officers B-17, while 35% quota was figured at S. No. 02 by promotion from the post of Computer Operators with at least seven years in B-16, thus discrimination was meted out in the rules.
5. That on 25-12-2021 and 17-02-2022, appellant submitted representations before R. No. 01 to enhance 35% up to 50% or above and to fix five years service as such instead of seven years service but no heed was paid to the same till date. (Copy as annex "B")


Hence, this appeal, inter alia on the following grounds:

GROUND S.

- a. That in the body of appeal, the position of the PMS Officers B-17 to the post of Secretary B-17 by transfer while to the post of Computer Operator B-16 by promotion has been elaborated.

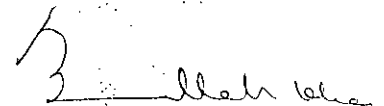
- b. That in each department in the rules of the Government, first, priority was given to the promotion quota and second by way of transfer to fill up the required post with at least five years in lower grade while in the rules, the same was perverted and 65% quota was given to PMS Officers B-17 and 35% quota was given to computer Operators B-16 with of seven years service as such and not five years.
- c. That such ratio of 65% and 35% for filling up the required post is against the rules and violation of quota of appellant category.
- d. That to fill up the post of Secretary amongst the holders of the post of PMS Officers, 35% quota of Computer Operators is not based on sound and legal reason but is based on discrimination and malafide.
- e. That by keeping in view such ratio of both the categories, it could be safely said that Computer Operator will not see promotion to the post of Secretary till his retirement from service.

It is, therefore, most humbly prayed that on acceptance of the Appeal, the said Rules dated 14-12-2021 be set aside / modified and quota ratio to the post of Secretary B-17 in the category of Computer Operator be enhanced up to 50% or to 75%, instead of 35% by decreasing the quota of PMS Officers being B-17 employees to 50% or 35%, with such other relief as may be deemed proper and just in circumstances of the case.



Appellant

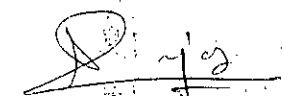
Through



Saadullah Khan Marwat



Arbab Saiful Kamal



Amjad Nawaz

Advocates

Dated: 23-04-2022

AFFIDAVIT

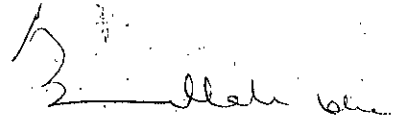
I, Dil Jan S/O Jan Akbar, Computer Operator, Directorate of Public Safety Commission, Home Department, Peshawar (Appellant), do hereby solemnly affirm and declare that contents of **Service Appeal** are true and correct to the best of my knowledge and belief



DEPONENT

CERTIFICATE:

As per instructions of my client, no such like Service Appeal has earlier been filed by the appellant before this Hon'ble Tribunal.



ADVOCATE

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 22ND DECEMBER, 2021.

GOVERNMENT OF THE KHYBER PAKHTUNKHWA HOME AND TRIBAL AFFAIRS DEPARTMENT.

NOTIFICATION

Peshawar, dated the 14th December 2021.

No. E&A (HD) 10-10/2021. 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, and in supersession of all previous Notifications, issued in this behalf, the Home and Tribal Affairs Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in Columns No. 3 to 5 of the Appendix to this Notification, which shall be applicable to the posts in the Provincial Public Safety Commission Khyber Pakhtunkhwa, as specified in Column No. 2 of the said Appendix:

APPENDIX

S.No.	Nomenclature of post.	Minimum qualification for initial recruitment.	Age limit.	Method of recruitment.
1.	2.	3.	4.	5.
1.	Director General.	--	--	By transfer from amongst the PAS/PCS/ PMS Officers.

A 5

2.	Director.		--	<p>(i) Fifty percent (50%) by promotion, on the basis of Seniority-cum-fitness, from amongst the holders of the post of Deputy Directors, with at least seven years service as such or twelve years service in BPS-17 and above; and</p> <p>(ii) fifty percent (50%) by transfer from amongst the PAS/PCS/PMS Officers.</p>
3.	Deputy Director.		--	<p>By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Directors and Secretaries, having five years' service as such.</p> <p>Note: For the purpose of promotion to Deputy Directors, a joint seniority list of Assistant Directors and Secretaries shall be maintained by the Department.</p>
4.	Assistant Director (Admn/Legal)/ Assistant Director (M&P)/ Assistant Director.	<p>(i) At least Second Class Master's Degree in Public Administration, Business Administration, Economics, Statistics or equivalent qualification from a recognized University; or</p> <p>(ii) at least Second Class LLB Degree or its equivalent qualification from a recognized University.</p>	21 to 35 years.	<p>(i) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Personal Assistants, with at least five years service as such; and</p> <p>(ii) seventeen percent (17%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Superintendents, with at least two years service as such or seven years service in BPS-16 and above; and</p> <p>(iii) thirty three percent (33%) by initial recruitment.</p>

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5.	Secretary.	--	--	(i) Sixty five percent (65%) by transfer from amongst the holders of the post of PMS Officers; and (ii) thirty five percent (35%) by promotion, on the basis of seniority-cum-fitness, amongst the holders of the post of Computer Operators, with at least seven years service in BPS-16.
6.	Accounts Officer.	--	--	By transfer from Government Departments.
7.	Superintendent.	--	--	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistants, with at least five years service as such.
8.	Personal Assistant.	--	--	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Stenographers, with at least five years service as such.
9.	Assistant.	(i) At least Second Class Bachelor Degree or equivalent qualification from a recognized University; or (ii) At least 2.5 GPA in Bachelors of Sciences or its equivalent qualification from a recognized University.	21 to 32 years.	(i) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Senior Clerks, with at least two years service as such; and (ii) fifty percent (50%) by initial recruitment.
10.	Stenographer.	(i) At least Intermediate in second division or its equivalent qualification from a recognized Board;	18 to 30 years.	By initial recruitment.

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		(ii) a speed of fifty words per minute in short-hand in English and thirty-five words per minute in typing; and (iii) knowledge of Computer in using MS Word and MS Excel.		
11.	Computer Operator.	(i) At least Second Class Bachelor's /BS Degree (Hon's) in Computer Science/Information Technology, from recognized university; or (ii) 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.	18 to 30 years.	By initial recruitment.
12.	Senior Clerk.		--	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Junior Clerks, with at least two years service as such.
13.	Junior Clerk.	At least Second Division Intermediate or its equivalent qualification from a recognized Board.	18 to 30 years.	(i) Thirty three percent (33%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Naib Qaids and Chowkidars in the Directorate, with two years services as such, having Secondary School Certificate from a

∞/

				recognized Board; and (ii) sixty seven percent (67%) by initial recruitment. Note:- For the purpose of promotion, there shall be maintained a common seniority list of Naib Qasids and Chowkidars in the Directorate with reference to the dates of their acquiring the Secondary School Certificate and regular date of appointment whichever is later.
14.	Driver.	At least Matric pass having valid LTV license.	18 to 40 years.	By initial recruitment.
15.	Naib Qasid.	At least Middle pass.	18 to 40 years.	By initial recruitment.
16.	Chowkidar.		18 to 40 years.	By initial recruitment.

SECRETARY TO
GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT.

B

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Better copy

To

The Secretary,
Home & Tribal Affairs Department,
Government of Khyber Pakhtunkhwa, Peshawar.

Sub: DEPARTMENTAL APPEAL ON SERVICE RULES DATED 14TH DECEMBER 2021, PUBLISHED ON 22ND DECEMBER, 2021 FOR AMENDMENT OR RELAXATION TO REDRESS & OVERCOME DECREMINATIOIN WITH THE APPLICANTS.

THROUGH PROPER CHANNEL

Respectable Sir

With due regard, it is submitted that the applicants are adversely affecting/suffering from above cited harsh & discriminating treatments of the Service Rules in the following manners:

1. That FIVE YEARS qualifying service for promotion are required for all the designations/positions, specially promotions from BPS-16 to BPS-17 under the above subject rules i.e., Personal Assistants & Assistant BPS-16 (also a uniform method of Five Years' Service is given in Khyber Pakhtunkhwa service rules of other departments), while the promotion of the applicants SEVEN YEARS SERVICE IN BPS-16 is compulsory to the said effects which is unrepresented, clear cut discrimination, obstacle and maltreatment with the applicants/Computer Operators.
2. Furthermore, On the other hand, 50% (Fifty Percent) departmental promotion quota is reserved for Deputy Director's BPS-17 promotion to the posts of Director BPS-18, Personal Assistant BPS-16 to the promotion of Assistant Directors BPS-17, & Assistant BPS-16 to the promotion of Superintendent BPS-17 whereas the Computer Operators BPS-16 are given only 35% (Thirty-Five Percent) departmental quota to the promotion of Secretary BPS-17, which is also painful & have the discrediting effects because a considerable number of junior computer operators shall deprived for promotions, suffered a lot & wait for a considerable time for their promotions & some of them may be retired without getting a chance of promotion in the same basic pay scale.

Pray: In presence of above cited circumstances/facts, your kind honor is humbly requested to please, amend or relax the said service rule's S.NO.5 Colom 5 as;

- i. Fifty percent (50%) by transfer from amongst the holders of the post of PMS Officers; and
- ii. Fifty percent (50%) by promotion, on the basis of seniority-cum fitness, amongst the holders of the post of Computer Operator, with at least Seven years' service as such or Five years in BPS-16.

Dated: 25TH December, 2021.

Your Obediently Applicants Senior Computer Operators

(1)

RAFAQIT ULLAH,
COMPUTER OPERATOR (BPS-16)
DISTRICT PUBLIC SAFETY COMMISSION, SWABI.

(2)

(3)

(4)

(5) (6)

To: The Secretary,
Human Affairs Department,
Department of Public Safety, Madison, WI.

Re: DEPARTMENTAL APPEAL ON SERVICE RULES DATED 19TH DECEMBER 2021 PUBLISHED
ON 22ND DECEMBER, 2021 FOR AMENDMENT OR RELAXATION TO ADDRESS &
OVERCOME DISCRIMINATION WITH THE APPLICANTS.

THROUGH PROPER CHANNEL

Respectfully,

With due respect, it is submitted that the applicants are
adversely affected/discriminated from above cited bench &
discriminated treatment by the Service Rules in the following
manner:

1. That FIVE YEARS qualifying service for promotion are required
for all the lower management positions, especially promotions from
Grade 10 to Grade 11 and the above subject rules have Personal
Assistant & Assistant Director as a uniform method of five
years service in Grade 10. However, Public Safety Service Rules
of 1973 for promotion of the promotion of the applicants
SEVEN YEARS SERVICE IN DPS-16 is obligatory to the said
positions which is discriminatory, clear cut discrimination,
violation of equal treatment with the applicants/competitor
operators.

2. Furthermore, 70% (Seventy Percent) promotion quota is reserved for empty
departmental promotion quota is reserved for empty
positions as per the policy of Director DPS-16
Assistant Director DPS-17, Assistant Director DPS-17,
Assistant Director DPS-17 and the Computer Operators, Assistant
Superintendent DPS-17 which is not applicable to the
positions of Secretary DPS-17, which is not applicable &
have the 10% (Ten Percent) quota to ensure a considerable number
of promotion/transfer positions shall be filled for positions
existing in the past for a considerable time for their
benefit & some of them may be related without carrying a
charge of 10% (Ten Percent) in the same public pay grade.

Pray: In view of the above stated circumstances listed, your kind
attention is hereby requested to please, amend & relax the said
service rules & rules in the following manner:

- A. 10% (Ten Percent) transfer from amongst the holders of the rank of Ins Officers/ and
- B. 50% (Fifty Percent) promotion on the basis of seniority-
cum seniority amongst the holders of the post of Computer
Operator with at least 10 years service on such or five
years in DPS-16.

Dated: 22ND December, 2021.

Your Obediently Applicant's Senior Computer Operators

(1)
RAFAQIT ULLAH,
COMPUTER OPERATOR (DPS-16)
DISTRICT PUBLIC SAFETY COMMISSION, ISMAILI

[Handwritten Signature]
1478/25/2021

(3) Dir: PSC From Mr. Naveed 101 5/5 1478/25/2021 (5) (6)

To

The Secretary,
Home & Tribal Affairs Department,
Government of Khyber Pakhtunkhwa, Peshawar.

Sub: **APPLICATION FOR S.S.R.C MEETING WITH YOUR KIND RECOMANDATIONS TO ADDRESS/RESOLVE THE PROBLEMS OF THE APPLICANTS/COMPUTER OPERATORS.**

Respectable Sir,

With due regard, it is submitted that the applicants are adversely affecting/suffering very badly due to harsh & discriminating treatment of the Khyber Pakhtunkhwa Provincial Public Safety Commission's Service Rules. (Copy Attached)

Your kind office has issued above cited Service Rules for recruitment, qualification and other conditions of service, whereby the applicants are adversely effected by the following discriminating & harsh clauses;

- a. Thirty-Five Percent (35%) quota is reserved for departmental promotion of Computer Operators BPS-16 to BPS-17, whereas 50% or in somewhere 100% departmental promotion quota is reserved for almost all the other designations/positions, i.e., Director, Deputy Directors, Assistant Directors, Superintendent, Personal Assistants, Assistant Senior Clerks etc.
- b. The Computer Operators are required to complete Seven Years qualifying service in BPS-16 for promotion to BPS-17, while on the other hand majority of the posts/designations are just needed Five Years or in some cases Two Years qualifying service for their promotions i.e., Deputy Directors, Assistant Directors, Superintendent, Personal Assistants, Assistant Senior Clerks & Junior Clerks.

In presence of above cited circumstances/facts, your kind honor is humbly requested to please;

- i. Call the meeting of S.S.R.C & place the request of the applicants before them with your kind recommendations to amend the said rules as;
- ii. Enhance the Departmental Promotion Quota of the Applicants from Thirty-Five Percent (35%) to Fifty Percent (50%).
- iii. The clause of Seven Years qualifying service for Promotion of Computer Operators in BPS-16 may please be replaced/amended with Five or Seven Years qualifying service as Computer Operator.

In presence of above cited circumstances, your kind honor is requested to please consider the problem of the applicants sympathetically, if your kind honor shall ignore it, a number of Computer Operators shall deprive from promotion in their entire service & may be retired in the same grade.

A detailed previous Departmental Appeal is also attached for your kind perusal, please.

Thanking you anticipation

**Senior Computer Operators on behalf of all the Computer Operators Khyber Pakhtunkhwa,
Director General of Provincial Public Safety Commission**

Dated: 17th February, 2021.

1. Muhammad Zeeshan Durrani

3. Qaiser Rehman

2. Rafaqat Nihal Khan

4. Dil Jan

Received by
Afzal Ss.

بعدالت جناب سرسٹریٹس ٹریڈنگ کمپنی پشاور

منجانب ایڈوائس
 مقام دلجان
 دعویٰ اپیل

باعث ٹریڈنگ کمپنی ایسٹیک

مقررہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکیل کاروائی متعلقہ آلہ مقام پشاور کیسٹیک سنگھ اڈلس سخان سرور سے ایڈوائس دیکھ کر ہائی کورٹ کو وکیل مقرر کر کے اٹارک کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے والی ہائی کورٹ ٹرانسکریپٹس وغیرہ بتلافی لینے جواب دہی اور اقبال دعوئی اور لیکچرنگ ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور مرضی دعوئی اور درخواست ہر قسم کی نقدی اور اس پر دستخط کرنے کا اختیار ہوگا نیز لیکچرنگ عدم پیروی یا ڈگری کی طرف اپیل کی برآمدگی اور نہ موصوفی مقررہ دائرہ کوئی اپیل ٹرانسکریپٹس و پیروی کرنے کا اختیار ہوگا اور لیکچرنگ ضرورت مقدمہ میں نہ کرے کہ کل یا پیروی کاروائی کے واسطے اور وکیل یا اٹارک قانونی کو اپنے ہمراہ یا اپنی بجائے ٹرانسکریپٹس اختیار ہوگا اور اس پر مقدمہ شروع کر دینی وہی جواب مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سامنے پروا نہیں منظور قبول ہوگا اور دوران مقدمہ میں جو خرچہ و تر جانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و فرسب کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشگی مقام روردہ پر ہو یا عدت سے باہر ہو تو وکیل صاحب یا بندہ ہوں گے کہ پیروی نہ کر کریں۔

آلہ رقم 23-4-22

القائد

القائد

القائد

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 اور باب نیف اسکال
 ایڈوائس

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 سیدہ الشہدہ خان ہر وقت
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 امجد نواز
 ایڈوائس

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**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No 636/2022

Dil Jan S/O Jan Akbar Computer Operator,

Directorate General Provincial Public Safety Commission, Khyber
Pakhtunkhwa.....Appellant

Versus

Secretary Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa
& other.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

PRELIMINARY OBJECTIONS

- 1) The appellant has neither cause of action nor locus standi to file the instant service appeal in this honorable Service Tribunal
- 2) This honorable tribunal lacks jurisdiction to adjudate an issue relating to strike down service rules, framed under rule 3 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and issuing directions to respondent's for amendments in accordance with wishes of the appellant. The appellant has no right, much less vested, to seek direction in the nature of writ of mandamus for amendment in the service rules, which is the sole prerogative of the executive. The tribunal under section 4 of Khyber Pakhtunkhwa service tribunal Act 1974 is not vested with power to order the amendment of service rules and set aside them under the guise of interpretation.
- 3) The instant service appeal is not maintainable and barred by law of limitation. The appellant filed departmental appeal, received vide diary No. 1478 dated 25/01/2022 which is time barred. It is a settled law that a departmental appeal time barred is not competent before the service tribunal. More so when it is not accompanied by an application for condonation of delay.
- 4) The appeal is also bad for non-joinder of necessary parties like Secretaries to Govt. of Finance, Establishment, Director General Public Safety Commission Khyber Pakhtunkhwa. The impleadment of hitherto non-functional Chairman, Provincial Public Safety Commission is also bad which is an important entity under the Police Act, 2017 however, his nomination, is still sub-judice before the honorable Peshawar High Court, Peshawar.
- 5) The appellant has not come to this honorable tribunal with clean hands and concealed date of filing of departmental appeal disclosure thereof may disentitle the appellant for the relief as prayed for.



PARA WISE COMMENTS ON FACTS

- 1) Pertains to record, hence no comments.
- 2) Pertains to the person of appellant, hence no comments.
- 3) Incorrect. Prior to the rules in hand, there was no provision for the promotion of the appellant to the post of Secretary Public Safety Commission, the same was filled by transfer from APUG / PMS officers Copy as Annexed-A, however, the current service rules were framed, providing 35 percent quota to officials of computer operators as well. It may be mentioned that rule making is the sole prerogative of Govt and no one has a vested right to ask for amendments as per wishes of an individual. Rules are made in the public interest for ensuring efficiency in service. The honorable tribunal under the law cannot issue direction to amend the rules as per wishes of an individual, otherwise, a flood gate will be opened for likeminded appellants to amend the rules for their promotion. The appellant is not aggrieved to file the instant service appeal. He has not been denied any right. He is asking for right not due to him yet now
- 4) Incorrect. As respectfully stated, each department frame rules in the public interest for the efficiency of service delivery. No one has any vested right to ask for any favorable amendments as per his wishes. The department has made rules for service of people not for individuals. The tribunal, respectfully stated, has no such jurisdiction to direct the respondents for amending service rules or set aside them. The tribunal may give relief to the appellant in accordance with the existing law and rules made thereunder The honorable tribunal may not create any right but enforce the existing one if any.
- 5) Incorrect. The appellant submitted a departmental appeal under the appeal rules which can be seen on page 10 of his service appeal diary No. 1478 dated 25 /01/2022 which is time barred before the appellate authority. His subsequent representation if any cannot enlarge time of limitation and once limitation starts running, it cannot be stopped under the law. The appellant has no right to ask for setting aside the service rules and make new one to satisfy his wishes. He should follow the solutory principle of First deserve and then desire. He has been provided 35 % quota for promotion and after fulfilment of eligibility criteria, he may be considered for promotion in accordance with law. He is not aggrieved now to file the instant service appeal.



ON GROUNDS

- A. Correct that service rules have been mentioned in the body of appeal ,providing for inter alia 35 percent promotion to computer operators to the post of Secretary Public Safety Commission BS 17 and 65 percent by transfer to the post of Secretary from the PMS Officers. It is not a ground for appeal
- B. Incorrect. Service rule making is subordinate legislation, also called delegated legislation which is the prerogative of the Government Department. Each department keeping in view the public interest, frame service rules for delivery of services. No uniform service rules are made due to the different nature of functions and strength of the staff. The repetition of service rules in service appeal does not justify and provide any ground for relief as prayed for.
- C. Incorrect and misconceived as stated in the preceding paras.
- D. Incorrect. As stated above, the service rules were made in the public interest and 35 % quota for promotion to the incumbent computer operators was for the first time provided. Computer operators are professionals of Information Technology and separate service structure and posts like DBA, ANA, AP, Web Developer requiring master degrees in IT, MCS, MIT, Software Engineering etc are prescribed for promotion to posts like programmers, Data Supervisors, Web designer etc, however, the post of Secretary Public Safety Commission is a generalist cadre and a portion of 35 % was justifiably prescribed for promotion to the post of Secretary Public Safety commission in the public interest. No malice can be attributed to the framing of service rules.
- E. Incorrect and misconceived. The service rules have provided 35% chances of promotion to eligible and fit computer operators on the basis of seniority cum fitness and it is a wrong assumption that the appellant will not be promoted till retirement. In view of the above submission, the instant service appeal bereft of any substance and justification may be dismissed in limine in the public interest.

Secretary to Government of Khyber Pakhtunkhwa
Home and Tribal Affairs Department

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GOVERNMENT OF NORTH WEST FRONTIER PROVINCE
HOME AND TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar, dated the 14. 11. 2007

No.SO (Police- I) HD/PPS&PCC/2-1/2006 . In pursuance of the provisions contained in sub- rule (2) of rule 3 of the North-West frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Home and Tribal Affairs Department, NWFP, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in column 1 to 5 of the Appendix to this Notification which shall be applicable to the posts borne in the District Public Safety and Police Complaints Commissions. NWFP specified in column 2 of the said Appendix.

SECRETARY TO GOVERNMENT OF THE NORTH- WEST FRONTIER PROVINCE
HOME & TRIBAL AFFAIRS DEPARTMENT

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APPENDIX

S.No.	Nomenclature of the posts	Minimum qualification for appointment by initial recruitment or by transfer	Age limit.	Method of recruitment.
1.	2.	3.	4.	5.
1.	Secretary			By transfer from amongst the officers of APUG/PMS in BPS-18 By initial recruitment
	Stenographer cum-Computer Operator	(i) F.A/F.SC in second division from a recognized Board; (ii) one year diploma in Computer Science from an institute recognized by the Board of Technical Education and (iii) Shorthand and typing speed 80/40	18-30 Year	
	Assistant	B.A/B.SC in second division from a recognized University and Computer literate.	18-30 Year	By initial recruitment
	Naib Qasid	Preferably literate.	18-32 Year	By initial recruitment

SECRETARY TO GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE
HOME & TRIBAL AFFAIRS DEPARTMENT

vii. If he wants to terminate his contract before expiry of the same, he will have to serve one month's notice in advance failing which he will have to deposit

To

7

The Secretary,
Home & Tribal Affairs Department,
Government of Khyber Pakhtunkhwa, Peshawar.

Sub: DEPARTMENTAL APPEAL ON SERVICE RULES DATED 14TH DECEMBER 2021, PUBLISHED ON 22ND DECEMBER, 2021 FOR AMENDMENT OR RELAXATION TO REDRESS & OVERCOME DECREMINATIOIN WITH THE APPLICANTS.

THROUGH PROPER CHANNEL

Respectable Sir

With due regard, it is submitted that the applicants are adversely affecting/suffering from above cited harsh & discriminating treatments of the Service Rules in the following manners;

1. That FIVE YEARS qualifying service for promotion are required for all the designations/positions, specially promotions from BPS-16 to BPS-17 under the above subject rules i.e., Personal Assistants & Assistant BPS-16 (also a uniform method of Five Years' Service is given in Khyber Pakhtunkhwa service rules of other departments), while the promotion of the applicants SEVEN YEARS SERVICE IN BPS-16 is compulsory to the said effects which is unrepresented, clear cut discrimination, obstacle and maltreatment with the applicants/Computer Operators.

2. Furthermore, On the other hand, 50% (Fifty Percent) departmental promotion quota is reserved for Deputy Director's BPS-17 promotion to the posts of Director BPS-18, Personal Assistant BPS-16 to the promotion of Assistant Directors BPS-17, & Assistant BPS-16 to the promotion of Superintendent BPS-17 whereas the Computer Operators BPS-16 are given only 35% (Thirty-Five Percent) departmental quota to the promotion of Secretary BPS-17, which is also painful & have the discrediting effects because a considerable number of junior computer operators shall deprived for promotions, suffered a lot & wait for a considerable time for their promotions & some of them may be retired without getting a chance of promotion in the same basic pay scale.

Pray: In presence of above cited circumstances/facts, your kind honor is humbly requested to please, amend or relax the said service rule's S.NO.5 Colom 5 as;

- i. Fifty percent (50%) by transfer from amongst the holders of the post of PMS Officers; and
- ii. Fifty percent (50%) by promotion, on the basis of seniority-cum fitness, amongst the holders of the post of Computer Operator, with at least Seven years' service as such or Five years in BPS-16.

Dated: 25TH December, 2021.

Your Obediently Applicants Senior Computer Operators

(1) *[Signature]*
RAFAQIT ULLAH,
COMPUTER OPERATOR (BPS-16)
DISTRICT PUBLIC SAFETY COMMISSION, SWABI.

(2)
Diary No. 1478 dated 25-12-21

(3) *[Signature]*
25/12/21 Dir: PSC
For N/A please
(4) *[Signature]*
52
25/12/21
Gd Secy.....
Addl Secy..... (5) (6)
Deputy Secy.....

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 636/2022

Dil Jan

versus

Secretary & Others

REJOINDER**Respectfully Sheweth,****PRELIMINARY OBJECTION**

All the 05 Preliminary Objections are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no cause of action / locus standi, hon'ble Tribunal has no jurisdiction in the matter, appellant has a vested right to challenge the same in the hon'ble Tribunal, the hon'ble Tribunal has the exclusive jurisdiction in the matter, the appeal is quite maintainable and not barred by any law, there is no need to file departmental appeal against the impugned Notification but still appellant invited the attention of the authority to the subject matter for justice, all parties have been impleaded and appellant has come to the hon'ble Tribunal with clean hands and nothing is concealed.

ON FACTS

- 1-2. Needs no comments. Regarding appointment as Computer Operator and dedicated performances of services.
3. Not correct. The para of the appeal is correct. In each and every department promotion quota is made more than the quota of transfer because when no eligible and qualified person is available in the promotion quota then of course, the post is to be filled up by transfer but in the case in hand, suitable and qualified person is available then the same shall be filled in by promotion and not by transfer. The Government is required to frame Rules for the benefits of parent department and not for outsider. These rules

are not for the interest for the public because interest nexus with the parent department and not from outside. The hon'ble Tribunal is quite competent to do or undo Rules, Notifications, Regulations etc by keeping in view the need of parent department. Appellant is quite aggrieved from the notification impugned because he will never see such post of B-17 in his whole service career. Even the 07 years experience is also much high because in all the rules of the departments, 05 years experience is tented.

4. Not correct. The para of the appeal is correct and as stated earlier when post of Secretary B-17 is to be filled in from the quota of PMS Officers B-17 then Computer Operators would not see such post in his whole service career.
5. Not correct. The para of the appeal is correct. Act, Rules, Regulation etc never becomes time barred and no limitation runs against such items. More so, if first appeal was decided by the appellate authority, then limitation runs but not against Acts, Rules etc. No other court has any power to step into the issue except the hon'ble Tribunal to do or undo the same and as stated earlier, by keeping in view 35% quota of promotion, then no Computer Operator will enjoy the fruit of the post of Secretary B-17 because 65% quota by transfer is much higher as compare to the 35% quota.

GROUNDS:

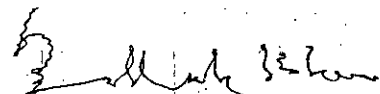
All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The same are re-affirmed once again.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.



Appellant

Through



Saadullah Khan Marwat

Advocate,

Dated: 31-01-2023

SERVICE TRIBUNAL - PESHAWAR HIGH COURT, PESHAWAR

PROFORMA FOR EARLY HEARING.

Form 'B'

Judicial Branch

Inst#.

Early Hearing. 175 -P/2022

In case No. 636 -p/2022

Dr. Jan vs Secretary of Govt.

Presented by Sandesh Khan Munsif Ahs. on behalf of appellant/plaintiff.
Entered in the relevant registrar.

Put up alongwith main case

Last date fixed	<u>13-05-22</u>
Reason(S) for last adjournment, if any by the Branch Incharge.	<u>Ret due to the engagement of Chairman the case couldnot heard.</u>
Date(s) fixed in the similar matter by the Branch Incharge.	
Available dates HVC branch.	<u>09/06/2022</u>


03/06/22
ASST: REGISTRAR (FIXATION).

Dated _____

~~DEPUTY REGISTRAR (J).~~

Dated _____

ADDITIONAL REGISTRAR (J).

Dated _____

BEFORE THE HON'BLE CHAIRMAN SERVICE TRIBUNAL,
PESHAWAR

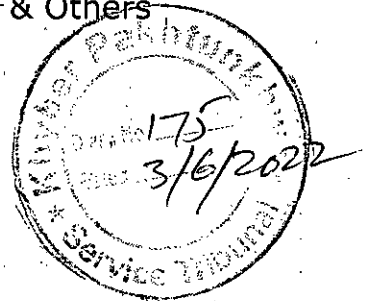
S. A. No. 636/2022

Dil Jan

versus

Secretary & Others

APPLICATION FOR EARLY HEARING:



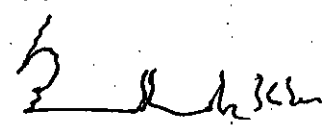
Respectfully Sheweth,

1. That subject appeal along with connected 03 other appeals were fixed on 13-05-2022 for preliminary hearing.
2. That due to official engagements of my honor, the same could not be heard and were adjourned to 20-07-2022.
3. That the department is going to make further promotion on the fresh rules and if the process of promotion was carried out, then the appeals would become in-fractious.
4. That in the circumstances preliminary hearing becomes mandatory.

It is, therefore, most humbly requested that the application be accepted as prayed for.

Appellants


Through


Saadullah Khan Marwat
Advocate

Dated. 02-06-2022

Be fixed ~~for~~ in the second week
of June i.e 14-6-2022.

Reader


8/6/2022

Form 'A'

Judicial Branch

to be filled by the Counsel.

Case Number	636 / 22					
Case Title	Dil Jann vs Secretary & others					
Date of Institution	23-04-22					
Bench	SB	<input checked="" type="checkbox"/>	DB	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Case Status	Fresh	<input checked="" type="checkbox"/>	Pending	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stage	Notice	<input type="checkbox"/>	Motion	<input checked="" type="checkbox"/>	PAN	<input type="checkbox"/>
Urgency to be clearly stated.	That the department is going to make further promotion.					
Nature of the relief Sought.	That rules dt. 14-12-21 be set aside / modified and quota ratio to the post of Secretary 3-17th category of An. P. & C. be enhanced.					
Next date of hearing.	20-07-22					
Alleged Target Date	As early as possible					
Counsel for	Petitioner	<input checked="" type="checkbox"/>	Respondent	<input type="checkbox"/>	In Person	<input type="checkbox"/>

[Handwritten Signature]

Signature of counsel/party

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No.636/2022


DIL JAN (Appellant)

VERSUS

Secretary Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa &
Others(Respondents)

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3.	Annexures-A	5...7
4.	Annexures-B	8


Section Officer (Litigation-II)
Home & Tribal Affairs Department
Khyber Pakhtunkhwa

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No 636/2022

Dil Jan S/O Jan Akbar Computer Operator,

Directorate General Provincial Public Safety Commission, Khyber
Pakhtunkhwa.....Appellant

Versus

Secretary Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa

& other.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

PRELIMINARY OBJECTIONS

- 1) The appellant has neither cause of action nor locus standi to file the instant service appeal in this honorable Service Tribunal
- 2) This honorable tribunal lacks jurisdiction to adjudate an issue relating to strike down service rules, framed under rule 3 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and issuing directions to respondent's for amendments in accordance with wishes of the appellant. The appellant has no right, much less vested, to seek direction in the nature of writ of mandamus for amendment in the service rules, which is the sole prerogative of the executive. The tribunal under section 4 of Khyber Pakhtunkhwa service tribunal Act 1974 is not vested with power to order the amendment of service rules and set aside them under the guise of interpretation.
- 3) The instant service appeal is not maintainable and barred by law of limitation. The appellant filed departmental appeal, received vide diary No. 1478 dated 25/01/2022 which is time barred. It is a settled law that a departmental appeal time barred is not competent before the service tribunal. More so when it is not accompanied by an application for condonation of delay.
- 4) The appeal is also bad for non-joinder of necessary parties like Secretaries to Govt. of Finance, Establishment, Director General Public Safety Commission Khyber Pakhtunkhwa. The impleadment of hitherto non-functional Chairman, Provincial Public Safety Commission is also bad which is an important entity under the Police Act, 2017 however, his nomination, is still sub-judice before the honorable Peshawar High Court, Peshawar.
- 5) The appellant has not come to this honorable tribunal with clean hands and concealed date of filing of departmental appeal disclosure thereof may disentitle the appellant for the relief as prayed for.



PARA WISE COMMENTS ON FACTS

- 1) Pertains to record, hence no comments.
- 2) Pertains to the person of appellant, hence no comments.
- 3) Incorrect. Prior to the rules in hand, there was no provision for the promotion of the appellant to the post of Secretary Public Safety Commission, the same was filled by transfer from APUG / PMS officers Copy as Annexed-A, however, the current service rules were framed, providing 35 percent quota to officials of computer operators as well. It may be mentioned that rule making is the sole prerogative of Govt and no one has a vested right to ask for amendments as per wishes of an individual. Rules are made in the public interest for ensuring efficiency in service. The honorable tribunal under the law cannot issue direction to amend the rules as per wishes of an individual, otherwise, a flood gate will be opened for likeminded appellants to amend the rules for their promotion. The appellant is not aggrieved to file the instant service appeal. He has not been denied any right. He is asking for right not due to him yet now
- 4) Incorrect. As respectfully stated, each department frame rules in the public interest for the efficiency of service delivery. No one has any vested right to ask for any favorable amendments as per his wishes. The department has made rules for service of people not for individuals. The tribunal, respectfully stated, has no such jurisdiction to direct the respondents for amending service rules or set aside them. The tribunal may give relief to the appellant in accordance with the existing law and rules made thereunder. The honorable tribunal may not create any right but enforce the existing one if any.
- 5) Incorrect. The appellant submitted a departmental appeal under the appeal rules which can be seen on page 10 of his service appeal diary No. 1478 dated 25/01/2022 which is time barred before the appellate authority. His subsequent representation if any cannot enlarge time of limitation and once limitation starts running, it cannot be stopped under the law. The appellant has no right to ask for setting aside the service rules and make new one to satisfy his wishes. He should follow the solutory principle of First deserve and then desire. He has been provided 35 % quota for promotion and after fulfilment of eligibility criteria, he may be considered for promotion in accordance with law. He is not aggrieved now to file the instant service appeal.



ON GROUNDS

- A. Correct that service rules have been mentioned in the body of appeal, providing for inter alia 35 percent promotion to computer operators to the post of Secretary Public Safety Commission BS 17 and 65 percent by transfer to the post of Secretary from the PMS Officers. It is not a ground for appeal
- B. Incorrect. Service rule making is subordinate legislation, also called delegated legislation which is the prerogative of the Government Department. Each department keeping in view the public interest, frame service rules for delivery of services. No uniform service rules are made due to the different nature of functions and strength of the staff. The repetition of service rules in service appeal does not justify and provide any ground for relief as prayed for.
- C. Incorrect and misconceived as stated in the preceding paras.
- D. Incorrect. As stated above, the service rules were made in the public interest and 35 % quota for promotion to the incumbent computer operators was for the first time provided. Computer operators are professionals of Information Technology and separate service structure and posts like DBA, ANA, AP, Web Developer requiring master degrees in IT, MCS, MIT, Software Engineering etc are prescribed for promotion to posts like programmers, Data Supervisors, Web designer etc, however, the post of Secretary Public Safety Commission is a generalist cadre and a portion of 35 % was justifiably prescribed for promotion to the post of Secretary Public Safety Commission in the public interest. No malice can be attributed to the framing of service rules.
- E. Incorrect and misconceived. The service rules have provided 35% chances of promotion to eligible and fit computer operators on the basis of seniority cum fitness and it is a wrong assumption that the appellant will not be promoted till retirement. In view of the above submission, the instant service appeal bereft of any substance and justification may be dismissed in limine in the public interest.



Secretary to Government of Khyber Pakhtunkhwa
Home and Tribal Affairs Department



BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No.636/2022

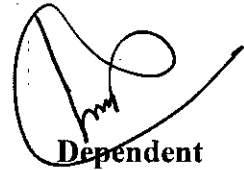
Dil Jan & 5 Others (Appellant)

VERSUS

Secretary Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa &
Others (Respondents)

AFFIDAVIT

I Mr. Albert David, Superintendent (Lit-II) Section Govt. of Khyber Pakhtunkhwa, Home & Tribal Affairs Department solemnly affirm that contents of the Parawise comments is / true and correct to the best of my knowledge and belief that nothing has been concealed from this Honourable Court.


Dependent

17301-3785363-7



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(5)

GOVERNMENT OF NORTH WEST FRONTIER PROVINCE
HOME AND TRIBAL AFFAIRS DEPARTMENT

NOTIFICATION

Peshawar, dated the 14. 11. 2007

No.SO (Police- I) HD/PPS&PCC/2-1/2006 . In pursuance of the provisions contained in sub- rule (2) of rule 3 of the North-West frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Home and Tribal Affairs Department, NWFP, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in column 1 to 5 of the Appendix to this Notification which shall be applicable to the posts borne in the District Public Safety and Police Complaints Commissions. NWFP specified in column 2 of the said Appendix.

SECRETARY TO GOVERNMENT OF THE NORTH- WEST FRONTIER PROVINCE
HOME & TRIBAL AFFAIRS DEPARTMENT

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APPENDIX

S.No	Name and nature of the post	Minimum qualification for appointment by initial recruitment or by transfer	Age limit.	Method of recruitment.
1.	2.	3.	4.	5.
1.	Secretary			By transfer from amongst the officers of APUG/PMS in BPS-18
	Steno-grapher-cum-computer Operator	(i) F.A/F.SC in second division from a recognized Board; (ii) one year diploma in Computer Science from an institute recognized by the Board of Technical Education and (iii) Shorthand and typing speed 80/40	18-30 Year	By initial recruitment
	Assistant	B.A/B.SC in second division from a recognized University and Computer literate.	18-30 Year.	By initial recruitment
	Naib Qasid	Preferably literate.	18-32 Year	By initial recruitment

SECRETARY TO GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE
HOME & TRIBAL AFFAIRS DEPARTMENT

vii. If he wants to terminate his contract before expiry of the same, he will have to serve one month's notice in advance failing which he will have to deposit

To

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The Secretary,
Home & Tribal Affairs Department,
Government of Khyber Pakhtunkhwa, Peshawar.

Sub: DEPARTMENTAL APPEAL ON SERVICE RULES DATED 14TH DECEMBER 2021, PUBLISHED ON 22ND DECEMBER, 2021 FOR AMENDMENT OR RELAXATION TO REDRESS & OVERCOME DECREMINATIOIN WITH THE APPLICANTS.

THROUGH PROPER CHANNEL

Respectable Sir

With due regard, it is submitted that the applicants are adversely affecting/suffering from above cited harsh & discriminating treatments of the Service Rules in the following manners;

1. That FIVE YEARS qualifying service for promotion are required for all the designations/positions, specially promotions from BPS-16 to BPS-17 under the above subject rules i.e., Personal Assistants & Assistant BPS-16 (also a uniform method of Five Years' Service is given in Khyber Pakhtunkhwa service rules of other departments), while the promotion of the applicants SEVEN YEARS SERVICE IN BPS-16 is compulsory to the said effects which is unrepresented, clear cut discrimination, obstacle and maltreatment with the applicants/Computer Operators.
2. Furthermore, On the other hand, 50% (Fifty Percent) departmental promotion quota is reserved for Deputy Director's BPS-17 promotion to the posts of Director BPS-18, Personal Assistant BPS-16 to the promotion of Assistant Directors BPS-17, & Assistant BPS-16 to the promotion of Superintendent BPS-17 whereas the Computer Operators BPS-16 are given only 35% (Thirty-Five Percent) departmental quota to the promotion of Secretary BPS-17, which is also painful & have the discrediting effects because a considerable number of junior computer operators shall deprived for promotions, suffered a lot & wait for a considerable time for their promotions & some of them may be retired without getting a chance of promotion in the same basic pay scale.

Pray: In presence of above cited circumstances/facts, your kind honor is humbly requested to please, amend or relax the said service rule's S.NO.5 Colom 5 as;

- i. Fifty percent (50%) by transfer from amongst the holders of the post of PMS Officers; and
- ii. Fifty percent (50%) by promotion, on the basis of seniority-cum fitness, amongst the holders of the post of Computer Operator, with at least Seven years' service as such or Five years in BPS-16.

Dated: 25TH December, 2021.

Your Obediently Applicants Senior Computer Operators

(1) *[Signature]*
RAFAQIT ULLAH,
COMPUTER OPERATOR (BPS-16)
DISTRICT PUBLIC SAFETY COMMISSION, SWABI.

(2) *[Signature]*
Diary No. 1478 Dated 25-12-21

(3) *[Signature]*
9511 Dir/PSC
For n/a please
(4) *[Signature]*
Supt. Secy
Deputy Secy
(5) (6)



GOVERNMENT OF KHYBER PAKHTUNKHWA,
HOME & TRIBAL AFFAIRS DEPARTMENT
homedepartmentlegalcell@gmail.com
Cell/Apps No.0333-9131463

Dated 10th November, 2022

AUTHORITY LETTER

Mr. Albert David, CNIC No. 17301-3785363-7 Superintendent Litigation-II Section, Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department is hereby authorized to attend Provincial Service Tribunal, Peshawar in connection with Service Appeal No. 636/2022-Dil Jan & 05 others and to file JPWC on behalf of official respondents on 11.11.2022.

Section Officer (Litigation-II)
Government of Khyber Pakhtunkhwa
Home and Tribal Affairs Department