


FORM OF ORDER SHEET

Court of _____

Appeal No. 1487/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/07/2023	<p>The appeal of Mr. Mustamil Shah resubmitted today by Mr. Bashir Khan Wazir Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>24/07/2023</u></p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Mustamil Shah DTS Peshawar Cantt. received today i.e. on 19.06.2023 is incomplete on the following score which is returned to her attorney for the appellant for completion and resubmission within 15 days.

- 1- Memo of appeal be got signed by the appellant.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Check list is not attached with the appeal.
- 4- Affidavit be got attested by the Oath Commissioner.
- 5- Copy of impugned amended rules dated 24.04.2022 mentioned in para-3 of the memo of appeal is not attached with the appeal be placed on it.
- 6- Copy of W.P. in respect of appellant mentioned in para-9 of the memo of appeal are not attached with the appeal be placed on it.
- 7- Page Nos. 8, 9, 20, 21, 22 to 54, 64 to 70, 74 to 78 of the appeal is illegible which may be replaced by legible/better one.
- 8- Annexures of the appeal are not in sequence which be annexed serial wise as mentioned in the memo of appeal.
- 9- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1815 /S.T,


Dt. 20/6 /2023.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Bashir Khan Wazir Adv.
High Court Peshawar.

All the objections are been removed as per the direction. The cas may kindly be placed before the learned tribunal.


20/6/23

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

Service Appeal No 1487/2023

Mustamil Shah.....Appellant

V E R S U S

Government of KPK & others.....Respondents

I N D E X

S NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Service Appeal	-	1-6
2.	Affidavit	-	7
3.	Copy of the appointment order	A	8-12
4.	Copies of Notifications	B	13-20
5.	Copy of the Act 2019	C	21-53
6.	Copy of Notification dated 25.07.2022	D	54
7.	Copy of the Gazetted Amended Service Rules	E	55-61
8.	Copy of the Minutes of the Meeting	F	62-70
9.	Copies of Writ Petitions and Order	G	71-85
10.	Copy of the Departmental Appeal	H	86-88
11.	Wakalat Nama		89

Appellant

Through:



(BASHIR KHAN WAZIR)

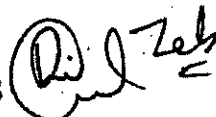
Advocate, High Court

Peshawar

&

DANIYAL ZEB

Advocate, Peshawar



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

Service Appeal No 1487 /2023

Mustamil Shah, Dispatch Rider (BPS-05) DTS, 4th floor, FC Plaza
Peshawar Cantt.

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary Establishment, Khyber Pakhtunkhwa, Peshawar.
3. Secretary Spots, Culture and Tourism Government of Khyber Pakhtunkhwa Peshawar.

.....Respondents

**SERVICE APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974,
WHEREBY THE APPELLANT WAS DEPRIVED FROM
PROMOTION INSPITE OF THE FACT THAT THE
APPELLANT WAS QUITE ELIGIBLE FOR
PROMOTION FOR THE POST OF JUNIOR CLERK
(BPS-11), HOWEVER THE NAME OF THE
APPELLANT WAS NOT CONSIDERED FOR
PROMOTION, WHEREBY DEPARTMENTAL APPEAL
WAS FILED BY THE APPELLANT WHICH WAS NOT
DECIDED AFTER COMPLETION OF THE
STATUTORY PERIOD.**

Prayer in Appeal:

On acceptance of the instant Appeal, the Appellant being eligible and entitled for the post of Junior Clerk BPS-11 on Regular Basis as per Length of Service and Seniority list, but the Respondents violated the Seniority of the Appellant, therefore, the Respondents may very kindly be directed to promote the Appellant to the post of Junior Clerk BPS-11 on Regular Basis.

2

Respectfully Sheweth:-

The Appellant humbly submits as under:-

1. That the Appellant is peaceful and law abiding citizen of Pakistan and is entitled for all the rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973.
2. That the appellant was appointed as Driver BPS-07 in Directorate of Tourist Services on 01.02.2007, but later on demoted to the post of Dispatch Rider BPS-05 vide office Order dated 05.08.2021 and since then the appellant is performing his duty with great real and zest. **(Copies of the appointment orders are at Annexure A)**
3. That the service structures are regulated by the service rules of the Directorate of Tourist Services which were notified vide notification dated 31.10.2017 and subsequently amended vide notification dated 24.04.2022. **(Copies of Notifications are at Annexure B). (services rules 13-6-18)**.
4. That the Khyber Pakhtunkhwa Culture and Tourism Authority was established under the Act known as Khyber Pakhtunkhwa Tourism Act 2019. Section 8 of the Act ibid is provided that the Directorate of Tourist Services will be seized and merged into the newly established Authority and Surplus Pool shall be created for the employees. **(Copy of the Act 2019 is attached as annexure C)**
5. That in the light of Section 8 of the Act ibid, the competent Authority has issued notification dated 25.07.2022, under which the Directorate of Tourist Services (DTS) Ceased to Exist and Authority was Established, hence the Appellant being a Civil Servant placed on the disposal of Respondent No 2. Moreover after issuance of this Notification the Appellant being a Civil Servant has the right of promotion in accordance with law and rules. **(Copy of Notification dated 25.07.2022 is attached as annexure D) (Ammended services rules 25-4-22)**.
6. That as per the amended service rules of Directorate of Tourist Services the appellant has completed the required length of service and is eligible to be promoted

to the post of Junior Clerk BPS-11. **(Copy of the Gazetted Amended Service Rules is attached as annexure E)**

7. That it is pertinent to mention here that an application was placed before the Director General of Directorate of Tourist Services by Appellant and other aggrieved officials of the said Directorate for promotion to their respective posts, upon which the Departmental Promotion Committee was held on dated 07.11.2022 under which the case of the Inspectors BPS-16 was discussed but the case of the Appellant was kept on hold and even no promotion was order to be given to the Inspectors as well as to the Appellant. **(Copy of the Minutes of the Meeting is at Annexure F).**
8. That DPC meeting for the officials of the Directorate in BPS-16 was held on 07-11-2022 under the Chairmanship of Secretary Sports, Culture and Tourism Department in which objection was raised by DPC upon the amended service rules. The DPC has no legal forum to object the service rules as the amendment was approved by Standing Service Rules Committee (SSRC), vetted by Law Department and notified by Sports, Culture and Tourism Department on 25.04.2022, after fulfilling all the codal formalities.
9. That previously the Appellant along with his other colleagues filed Writ Petitions NO. 2772/2022, 2773/2022 for redressal of certain grievances, to act under Section 8 of the Act for creation of Surplus Pool and for holding of DPC, which was dismissed by the Hon'ble Peshawar High Court Peshawar, but during the pendency of the Writ Petition the DPC was held by the respondents, but the Appellant was ignored from promotion. **(Copies of Writ Petitions and Order are attached as annexure G)**
10. That as per the requisite length of service, the appellant is quite eligible for promotion and every Civil Servant has the legitimate expectations of progressions into his service, hence the Appellant is also entitled to be promoted as per the rules mentioned above. The respondents by one or other way delaying the matter of the Appellant, therefore the Appellant while submitted his Departmental Appeal with request to the

4

respondents to consider his case for promotion, but inspite of the completion of mandatory period of the Departmental Appeal the Respondents did not decide the same Appeal. **(Copy of the Departmental Appeal is attached as annexure H)**.

11. That the Appellant as eligible for promotion under the Service Rules as the length of service mentioned, if not promoted will be deprived of their legal right as the Directorate of Tourist Services had already ceased and if the Appellant is absorbed in any other Department, he will be placed at the bottom of Seniority List as per policy.
12. That feeling aggrieved from the act of Respondents, the Appellant having no other adequate and efficacious remedy, approaches this Honourable Tribunal on the following grounds inter-alia:-

GROUND:-

- A) That the Appellant is peaceful and law abiding citizen of Islamic Republic of Pakistan and is fully entitled to all the basic and fundamental rights as enshrined in the fundamental law of the state, interpreted and guaranteed by the law of the land.
- B) That it is worth mentioning here that the Objection was raised upon the Promotion of the Appellant BPS-05 to BPS-11 on the ground of non-completion of length of Service, but now the Length of Service of the Appellant is completed and the Appellant is eligible to be promoted as BPS-05.
- C) That the Appellant as eligible for promotion under the Service Rules as the length of service mentioned, if not promoted will be deprived of their legal right as the Directorate of Tourist Services had already ceased and if the Appellant is absorbed in any other Department, he will be placed at the bottom of Seniority List as per policy.
- D) That the acts of the Respondents of not following the same criteria which has been safeguarded by the law and rules, while in the instant case the respondents

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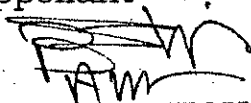

have not yet considered the case of the Appellant, which is illegal, unlawful, unnatural, ab-initio, null and void in the eye of law, hence liable to be declared so.

- E) That in the light of Section 8 of the Act *ibid*, the competent Authority has issued already notification dated 25.07.2022, under which the DTS Ceased to Exist and Authority was Established, hence the Appellant being a Civil Servant placed on the disposal of Respondent No 2. Moreover after issuance of this Notification the Appellant being a Civil Servant has the right of promotion in accordance with law and rules.
- F) That it is pertinent to mention here that the Appellant was eligible and entitled for promotion but the respondents had illegally and unlawfully not promoting the service of the Appellant, which is illegal, unlawful, without lawful authority and is liable to be declared so.
- G) That the fundamental rights of the Appellant has blatantly violated by the Respondents and the Appellant has been discriminated and has been denied his due rights under the Constitution of Islamic Republic of Pakistan, 1973.
- H) That the Appellant is not treated in accordance with law, rules and Regulations.
- I) That the Appellant is appointed according to rules and on adopted procedure by the respondents and after his appointments he has never ever given an opportunity of any complaint to the respondents and performed his duties with full devotions, the Appellant being eligible for Promotion being most Senior employee of the Respondents Department serving in the Respondents Department since 2020.
- J) That any other ground not raised here specifically may graciously be allowed to be raised at the time of arguments.

PRAYER:-

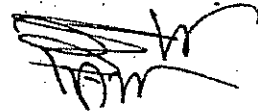
It is, therefore, most humbly prayed that, On acceptance of the instant Appeal, the Appellant being eligible and entitled for the post of Junior Clerk BPS-11 on Regular Basis as per Seniority list, but the Respondents violated the Seniority of the Appellant, therefore, the Respondents may very kindly be directed to promote the Appellant to the post of Junior Clerk BPS-11 on Regular Basis.

Any other relief, not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

Through: Appellant

(BASHIR KHAN WAZIR)
 Advocate, High Court
 Peshawar
 &
DANIYAL ZEB 
 Advocate, Peshawar

CERTIFICATE:

It is certified that no such like Appeal has earlier been filed before this Hon'ble Tribunal.


DEPONENT

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

Service Appeal No _____/2023

Mustamil Shah.....Appellant

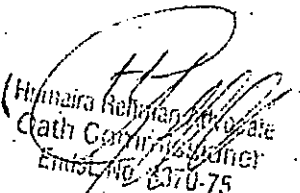
VERSUS

Government of KPK & others.....Respondents

AFFIDAVIT

I, Mustamil Shah, Dispatch Rider (BPS-05) DTS, 4th floor, FC Plaza Peshawar Cantt, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT


(Hinaira Rehman) Oath Commissioner
Enrol. No. 2370-75
17-6-23

No.DTS-4(130)/06
Government of Pakistan
Department of Tourist Services

7th Floor Green Trust Tower Jinnah Avenue,
Islamabad, the 1st Feb., 2007.

The Deputy Controller,
Department of Tourist Services,
Peshawar.

Sub: MUTUAL TRANSFER

In pursuance of Ministry of Defence, Rawalpindi letter No.6/15/2004/D-32(Admin-III), dated 1st Feb., 2007 Mr. Mustamil Shah, Driver has been relieved by Ministry of Defence of from his duties w.e.f. 1st Feb., 2007.

2. You are, therefore advised to relieve Mr. Muhammad Munir, Driver from his duties w.e.f. 1st Feb., 2007 and direct Mr. Mustamil Shah to join Department of Tourist Services, Peshawar as Driver from the same date.

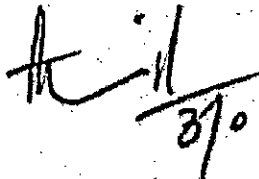

(Muhammad Yar Khan)
Controller

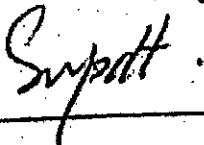
Copy for information to:-

1. DDO, DTS, Peshawar.
2. Ch. Muntaz Ahmed, Section Officer (D-32) (Admin-III), Ministry of Defence (Defence Division, Rawalpindi. with reference to his O.M. No.6/15/2004/D-32(Admin-III), dated 1st Feb., 2007.
3. Mr. Muhammad Munir, Driver, DTS, Peshawar.
4. Mr. Mustamil Shah, Driver.

Controller

relieve


31/02/07



ATTESTED
Bashir Khan Wajir B/C 09-2053
ADJUTANT
High Court, Peshawar

Office of the Deputy Controller
Department of Tourist Services
Peshawar
4651-46
03-02-07

9

جناب ڈی پی سی - ڈی پی آر کی لکھنا

جناب عالی!

Joining Report -

3 الہ علی (پشاور) (120) 4-5-07 تاریخ 1-2-07

ایڈیشنل ڈی پی سی (پشاور) 4/03/15-6/15 تاریخ 1-2-07

میں آج 2 صبح 3 کو ڈی پی آر

ڈی پی آر کے ساتھ ساتھ ڈی پی آر کے ساتھ ساتھ دفتر کو جان کر جاؤں

میں ڈی پی آر

3 صبح 2

Atulab

ڈی پی آر کے ساتھ ساتھ ڈی پی آر کے ساتھ ساتھ

DTS-PR

3/2/07
Supatt

Office of The Deputy Controller,
Dept of Tourist Services, Peshawar.
Receipt No. 4654
Date 3-2-07
Signature of Controller

ATTESTED
Bashir Khan Wazir BIC 09-2053
ADVOCATE
High Court Peshawar



Government of Khyber Pakhtunkhwa
Directorate of Tourist Services

Dated Peshawar, the 05th August 2021

(10) "A"

OFFICE ORDER

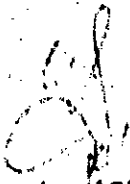
No.DTS-PR-5(1)/88-A&E(IX). On the recommendation of the Departmental Promotion Committee in its meeting held on 04.08.2021, the following Driver (BPS-07) is hereby promoted to the post of Dispatch Rider (BPS-05) on regular basis in his own pay and allowances with immediate effect:

S. No	Name of the official	Promotion	
		From	To
1	Mr. Mustamil Shah	Driver (BPS-07)	Dispatch Rider (Bps-05) in own pay and allowances

Director General

Copy of information:

1. The Accountant General Office, Peshawar.
2. Section Officer (Tourism) Sports & Tourism Deptl.
3. DDO, DTS Peshawar.
4. Official Concerned.
5. Personal File, official concerned.


Director General

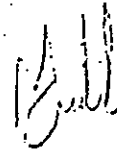
ATTESTED
Bashir Khan Wazir B/C 09-2053
ADVOCATE
High Court Peshawar

(11)

Charge Assumption Report

With reference office order No. DTS-PR-5(1)/88 A&E VIII dated 05/08/2021

I have assume charge of The post of Dispatch Raider (BPS.05) own pay and allowance on the day 04-08-2021 in the office of Director Directorate of Tourist Services Peshawar



Mustamil Shah
Dispatch Raider (BPS.05)
Directorate of Tourist Services
Peshawar

ATTESTED
Bashir Khan Wazir BIC 09-2053
ADVOCATE
High Court Peshawar



No.DTS-PR-5(1)/88-A&E -VIII
Government of Khyber Pakhtunkhwa
Directorate of Tourist Services


12

4th Floor, FC Plaza, Sunehri Masjid Road,
Peshawar, the 01st January, 2022

OFFICE ORDER:

In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. The joint seniority list of Dispatch Rider (BPS-05), DMO (BPS-04) Naib Qasid (BPS-3) and Farashi (BPS-3) (as stood on 01.01.2022), Directorate of Tourist Services is hereby notified/circulated for general information.

S#	Name of official with qualification	Date of birth with Domicile	Date of entry in to-govt. service	Regular appointment/ promotion to the present post			Present appointment with date	Remarks
				Date	BPS	Method of recruitment		
1	Mr. Mustamil Shah FA	10.06.1979 Peshawar	01.02.2007	05.08.2021	07	By promotion	Dispatch Rider 05.08.2021	


(Director General)

Copy for information to:

1. The Section Officer (Tourism), 13-A, Khyber Road, Peshawar.
2. Officer Order File.

ATTESTED
Bashir Khan Naib B/C 03-2053
GOVT. OF KHYBER PAKHTUNKHWA
High Court Peshawar

11B
13

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 13TH JUNE, 2018.

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
SPORTS, CULTURE, TOURISM, YOUTH AFFAIRS, ARCHAEOLOGY AND MUSEUMS DEPARTMENT.

NOTIFICATION

Dated Peshawar, the 31st October, 2017.

No. SO (DTS)6-17/2017/Service Rules:- In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Servants (Appointment, Promotion and Transfer) Rules, 1989, the Sports, Culture, Tourism, Archaeology and Youth Affairs Department, after consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification conditions, specified in column No.3 to 5 of the Appendix to this Notification, which shall be applicable to the posts in the Directorate Services Khyber Pakhtunkhwa, specified in column No.2 of the said Appendix.

APPENDIX

S.No.	Nomenclature of the post.	Minimum qualification for appointment by initial recruitment or by transfer.	Age limit.	Method of recruitment.
1	2	3	4	5
1.	Director General (BPS-19).			By promotion, on the basis of seniority-cum-fit amongst the Deputy Directors having twelve years service and above; and Provided that if no suitable person is available, then by transfer from amongst FMS or BPS officers.

ATTESTED
Bashir Khan
ADVO
High Court Peshawar
16/09/2018

5

1789 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 13TH JUNE, 2018

2.	Deputy Director (BPS-18).				By promotion, on the basis of seniority-cum-fitness amongst the Assistant Directors, Assistant Controllers, Law and Admin and Accounts Officers having five years service. Provided that if no suitable person is available for then by transfer from amongst PMS or PAS officer. Note: For the purpose of promotion a joint seniority list of Directors, Assistant Controllers, Law Officers and Accounts Officers shall be maintained.
3.	Law Officer (BPS-17).	At least Second Class LLB Degree from a recognized University with three (03) years experience at the Bar.	25 to 35 years.	(i) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Legal Assistants with five years service as such. Provided that if no suitable person is available for promotion by initial recruitment; and (ii) Fifty percent by initial recruitment.	
4.	Assistant Director (BPS-17).	At least Second Class Master's Degree in Tourism and Hospitality, Economics, Public Administration, Business Administration or equivalent qualification from a recognized University with two years experience in tourism sector.	24 to 34 years.	By initial recruitment.	
5.	Assistant Controller (BPS-17).			By promotion, on the basis of seniority-cum-fitness, from amongst the Inspectors with three years service as such.	
6.	Admin and Accounts Officer (BPS-17).	At least Second Class Master's Degree in Commerce, Business Administration (Finance) or equivalent qualification from a recognized University with two years relevant experience.	24 to 34 years.	(i) Thirty-three percent by promotion, on the basis of seniority-cum-fitness from amongst the Superintendents with five years service as such. Provided that if no suitable candidate is available for promotion by initial recruitment; and (ii) sixty seven percent by initial recruitment.	

ATTESTED
Bashir Khair Wani B/C 09-2053
ADVOGATE
High Court Peshawar

51

KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 13th JUNE, 2018 1792

17.	Junior Clerk (BPS-11).	(a) At least Second Class Secondary School Certificate or its equivalent qualification from a recognized Board; and (b) Typing speed of thirty (30) words per minute on Computer.	18 to 30 years.	(i) Thirty three percent by promotion, on the basis of cum-fitness from amongst the Dispatch riders, Machine Operators, Naib Qasids and Farasi Secondary School Certificate; and (ii) sixty-seven percent by initial recruitment. Note: for the purpose of promotion a joint seniority list of Riders, Duplicate Machine Operators, Naib Qasids and Farasi shall be maintained with reference to the dates of their Secondary School Certificate. Provided that— (a) if two or more officials have acquired the Secondary Certificate in the same session, the inter-se-seniority in the lower post shall be maintained for the 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 next junior to him possessing the requisite qualification he shall be promoted in preference to the senior official.
18.	Assistant -Sub-Inspector (BPS-09).	(a) At least Second Class Intermediate Certificate or its equivalent qualification from a recognized Board; and (b) Height..five feet and seven inches, Chest thirty three inches with expansion of one and half (1½) inches.	18-28 years.	(i) Thirty-three percent by promotion, on the basis of cum-fitness, from amongst the Head Constables years service as such; and (ii) sixty seven percent by initial recruitment.

ATTESTED
Bashir Khan Wani
Deputy Secretary
13/06/2018
10:09:20 AM
13/06/2018

16

12.	Computer Operator (BPS-16).	(a) At least Second Class Bachelor's Degree in Computer Science / Information Technology (BCS / BIT four years), from a recognized University; or (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.	21 to 32 years.	By initial recruitment.
13.	Sub-Inspector (BPS-14).	(a) At least Second Class Bachelor's Degree or its equivalent qualification from a recognized University; and (b) Height...five feet and seven inches, Chest thirty three inches with expansion of one and half (1½) inches.	21 to 32 years.	(i) Fifty percent by promotion, on the basis of senior fitness, from amongst the Assistant Sub-Inspectors years service as such: Provided that if no suitable person is available for promotion initial recruitment; and (ii) fifty percent by initial recruitment.
14.	Senior Clerk (BPS-14).			By promotion, on the basis of seniority-cum-fitness, from the Junior Clerks with at least two years service as such.
15.	Steno Typist (BPS-14).	At least Second Class Intermediate School Certificate or its equivalent qualification from a recognized Board with— (a) a speed of fifty (50) words per minute in shorthand in English and thirty five (35) words per minute in typing; and (b) knowledge of Computer in using MS Word and MS Excel.	18 to 30 years.	By initial recruitment.
16.	Accountant (BPS-14).	(a) At least Second Class Bachelor's Degree in Commerce, Business Administration or equivalent qualification from a recognized University; and (b) A proficiency in accounts related software.	21 to 28 years.	By initial recruitment.

ATTESTED
Bashir Khan Wazir B/C 09 2053
ADVO-CA
High Court Peshawar

17

1793 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 13TH JUNE, 2018

19.	Head Constable (BPS-07).	(a) At least Second Class Secondary School Certificate or its equivalent qualification from a recognized Board; and (b) Height... five feet and seven inches, Chest thirty three inches with expansion of one and half (1½) inches.	18to28 years.	(i) Thirty-three percent by promotion, on the basis of cum-fitness, from amongst the Constables with the service as such; and (ii) sixty seven percent by initial recruitment.
20.	Driver (BPS-06).	Literate with valid driving license of light transport vehicle. Note: Preference will be given to those who have relevant experience in driving, repair and maintenance of vehicles.	18to40 years.	By initial recruitment.
21.	Dispatch Rider (BPS-05).	At least Second Class Intermediate Certificate or its equivalent qualification from a recognized Board with valid motorbike license.	18to28 years.	(i) Thirty-three percent by promotion, on the basis of cum-fitness, from amongst the Drivers, Duplicate Operators and Naib Qasids; and (ii) sixty seven percent by initial recruitment. Note: for the purpose of promotion, a joint seniority list of Drivers, Duplicate Machine Operators and Naib Qasids maintained.
22.	Constable (BPS-05).	(a) At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board; and (b) Height... five feet and seven inches, Chest thirty three inches with expansion of one and half (1½) inches.	18to28 years.	By initial recruitment.
23.	Duplicate Machine Operator (BPS-04).	Preferably literate.	18to40 years.	By initial recruitment.
24.	Naib Qasid (BPS-03)	Preferably literate	18to40 years.	By initial recruitment.

ATTENDED
Bashir Khan
Advocate
High Court Peshawar
BIC 09-2053

(2)

KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 13th JUNE, 2018 1790

Superintendent (BPS-17).				By promotion, on the basis of seniority-cum-fitness, from among the Assistants and Stenographers with at least five years service as such. Note: For the purpose of promotion a joint seniority list of Assistants and Stenographers shall be maintained.
Inspector (BPS-16)	(a) At least Second Class Bachelor's Degree or equivalent qualification from a recognized University; and (b) Height...five feet and seven inches. Chest thirty three inches with expansion of one and half (1½) inches.	21 to 30 years.	(i) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Inspectors with at least five years service as such: Provided that if no suitable person is available for promotion, by initial recruitment; and (ii) fifty percent by initial recruitment.	
Legal Assistant (BPS-16).	At least Second Class LLB Degree from a recognized University with two years experience at the Bar.	25 to 35 years.	By initial recruitment.	
Assistant (BPS-16).	At least Second Class Bachelor's Degree or its equivalent qualification from a recognized University.	20 to 32 years.	(i) Seventy five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks and Accountants with at least five years service as such: Provided that if no suitable person is available for promotion, by initial recruitment; and (ii) twenty five percent by initial recruitment. Note: For the purpose of promotion, a joint list of Senior Clerks and Accountants shall be maintained.	
Stenographer (BPS-16).	At least Second Class Bachelor's Degree from a recognized University with— (a) a speed of seventy (70) words per minute in shorthand in English and forty-five(45) words per minute in typing; and (b) knowledge of Computer in using MS Word and MS Excel.	20 to 32 years.	By promotion, on the basis of seniority-cum-fitness, from amongst the Steno Typists with at least five years service as such: Provided that if no suitable person is available for promotion, by initial recruitment.	

High Court Peshawar
ADVOCATE
Bashir Khan Bhatti
ATTESTED
09-2053

19

KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 13th JUNE, 2018 1794

25.	Farash (BPS-03).	Preferably literate.	18to40 years.	By initial recr
26.	Chowkidar (BPS-03).	Preferably literate.	18to40 years.	By initial recr

SECRETARY TO
GOVERNMENT OF THE KHYBER PAKH
SPORTS, CULTURE, TOURISM, YOUTH AFFAIR
AND MUSEUMS DEPARTMEN

Printed and published by the Manager,
Stat. Plg. Dept., Khyber Pakhtunkhwa, Peshawar.

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Bashir Khan
ADVOCATE
High Court, Peshawar



6-11
GOVERNMENT OF KHYBER PAKHTUNKHWA
SPORTS, CULTURE, TOURISM, ARCHAEOLOGY, MUSEUMS
& YOUTH AFFAIRS DEPARTMENT
(Sports & Youth Affairs Section)

20

No. SO (Sports) 1-8/SR/2021/2970-76

Dated Peshawar the 23rd December, 2021

To

The Secretary to Government of Khyber Pakhtunkhwa,
Law Department
Peshawar.

Subject: MINUTES OF MEETING OF STANDING SERVICE RULES (SSRC)
COMMITTEE HELD ON 14-12-2021 UNDER THE CHAIRMANSHIP OF
SECRETARY SPORTS & TOURISM DEPARTMENT

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy minutes of the subject meeting along with appendixes of Directorate of Youth Affairs & Directorate of Tourist Services, Khyber Pakhtunkhwa regarding amendment in the existing service rules of both directorates for vetting purpose, please.

Your Faithfully,

[Signature]
23/12/2021
Section Officer (Sports)

Encl: as above.

Copy is forwarded to the:

1. Director General, Dte. of Tourist Services, Khyber Pakhtunkhwa.
2. Director Youth Affairs, Khyber Pakhtunkhwa.
3. Section Officer (Tourism), Sports & Tourism Department, Khyber Pakhtunkhwa.
4. PS to Secretary, Sports Department, Khyber Pakhtunkhwa.
5. PAs to AS-I & II, Sports Department, Khyber Pakhtunkhwa.
6. PAs to DS-I, II & III, Sports Department, Khyber Pakhtunkhwa.

[Signature]
23/12/2021
Section Officer (Sports)

ATTESSED
Bashir Khan (Jazir) BIC 09-2053
ADVO
High Court Peshawar

FOR THE EXTRAORDINARY GAZETTE ISSUE OF
THE KHYBER PAKHTUNKHWA

PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA


NOTIFICATION

Dated Peshawar, the 8th /10/2019

No. PA/Khyber Pakhtunkhwa/Bills-71/2019/ 8832 The Khyber Pakhtunkhwa Tourism Bill, 2019 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 30th September, 2019 and assented to by the Governor of the Khyber Pakhtunkhwa on 4th October, 2019, is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

Act 25-10-19
HK
THE KHYBER PAKHTUNKHWA TOURISM BILL, 2019.
(KHYBER PAKHTUNKHWA ACT NO. XXVIII OF 2019)
(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa,
(Extraordinary), dated the 8th /10/2019).

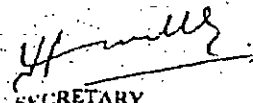
(Here print as in the accompaniment).


SECRETARY,
Provincial Assembly of Khyber Pakhtunkhwa.

No. and date (as per notification above).

A copy of the above notification with the accompaniment is forwarded to the Manager, Government Stationery and Printing Department, Peshawar, with the request to publish the same in the extraordinary issue of the Khyber Pakhtunkhwa Government Gazette of today's date and distribute copies thereof immediately in accordance with the list given overleaf.

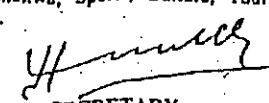
Proof should be sent to this Secretariat before publication.


SECRETARY,
Provincial Assembly of Khyber Pakhtunkhwa

E.No. PA/Khyber Pakhtunkhwa/Bills-71/2019/ 8833-37 Dated 2nd /11/2019

A copy of the above is forwarded to:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Secretary to Government of Khyber Pakhtunkhwa, Law Department.
3. The Director Information, Khyber Pakhtunkhwa.
4. The Director I.T/ Special Secretary, Provincial Assembly of Khyber Pakhtunkhwa.
5. The Secretary to Government of Khyber Pakhtunkhwa, Sports, Culture, Tourism, Archaeology, Museums & Youth Affairs Department.


SECRETARY,
Provincial Assembly of Khyber Pakhtunkhwa

ATTESTED

Bashir Khan Wajidi B/C 09-2053
ADVOCATE
High Court Peshawar

(22)

LIST OF COPIES TO BE DISTRIBUTED

S.No.	Designation of Officer	No of Copies to be Supplied
1.	The Secretary, Provincial Assembly of Khyber Pakhtunkhwa.	75
2.	The Secretary to Government of Khyber Pakhtunkhwa, Sports, Culture, Tourism, Archaeology, Museums & Youth Affairs Department.	5
3.	The Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs and Human Rights Department.	5

BAZAH
Bashir Khan Wazir
ADVOCATE
High Court Peshawar
BIC 09-2053

AN ACT

to provide for a legal framework to promote culture and tourism in the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to establish a legal framework for the development, standard-setting, promotion, management and marketing of cultural heritage and sustainable tourism in the Province of the Khyber Pakhtunkhwa and matters connected therewith or incidental thereto;

It is hereby enacted as follows:

CHAPTER-I PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Tourism Act, 2019.

(2) It shall extend to the whole Province of the Khyber Pakhtunkhwa.

(3) It shall come into force on such date as the Government may notify in the official Gazette and different dates may be notified for different provisions of the Act.

Provided that for each Integrated Tourism Zones (ITZs), the provisions of this Act shall come into force, from the date, an area is notified under section 20 of this Act.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) "Authority" means the Khyber Pakhtunkhwa Culture and Tourism Authority established under section 6 of this Act;
- (b) "Authorized Officer" means an employee authorized under section 48 of this Act;
- (c) "Appellate Tribunal" means an Appellate Tribunal as provided in section 49 of this Act;
- (d) "Board" means the Board of Directors of the Authority as provided in section 12 of this Act;
- (e) "Corporation" means the Khyber Pakhtunkhwa Tourism Corporation;
- (f) "Chairman" means the Chairman of the Provincial Tourism Strategy Board, or the Board as the case maybe;
- (g) "Department" means the Sports, Culture, Tourism, Youth Affairs, Archaeology and Museums Department;
- (h) "Directorates" means the Khyber Pakhtunkhwa Directorate of Culture and the Directorate of Tourist Services;

Saima Sami
Assistant Secretary
Law Department KPK

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ADVOCATE
High Court Peshawar
09-2053

- (i) "Director General" means the Director General of the Authority;
- (j) "Ecotourism" means responsible travel to natural areas to view the flora and fauna without disturbance to the ecological and cultural status of the areas;
- (k) "Environment Department" means the Environment, Forestry and Wildlife Department of Government;
- (l) "Fund" means the Tourism Fund established under section 26 of this Act;
- (m) "Government" means the Government of the Khyber Pakhtunkhwa;
- (n) "host" means a resident of a tourism destination, or member of the community in a tourism destination area;
- (o) "hotel" includes a facility such as stadia, lodge, restaurant, refreshment room, camping site, rest house and resort used for the reception of guests and travelers desirous of dwelling or sleeping therein;
- (p) "Institute" means Pakistan Austrian Institute of Tourism and Hotel Management, Swat, devolved to the Provincial Government vide notification No.3 (6) 2010 ADMIN dated 31-03-2011;
- (q) "Integrated Tourism Zone" means an area declared by the Government on the recommendation of Provincial Tourism Strategy Board under section 20 of this Act, having such geographical limits as Government may specify;
- (r) "Local Government Department" means the Local Government, Elections and Rural Development Department of Government;
- (s) "littering" means throwing of any refuse (solid or liquid, domestic or commercial, animal or human), debris or rubbish including any glass, metal, cigarette butts, paper, fabric, wood, food, abandoned vehicles, abandoned vehicle parts, construction or demolition material, garden remnants and clippings, soil, sand or rocks, deposited in or on a place or any other material, substance or thing deposited in or on a place if its size, shape, nature or volume makes the place where it has been deposited disorderly or detrimentally affects the proper use of that place;
- (t) "License" mean a License granted under this Act;
- (u) "member" means a member of the Provincial Tourism Strategy Board, or the Board, as the case may be and includes their Chairman;

Saima Sobral
 Assistant Registrar
 Law & Order
 Peshawar

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 Bashir Khan Vazir BIC/09-2058
 ADVOCATE
 High Court Peshawar

- (v) "Mineral Department" means the Mines and Mineral Development Department of Government;
- (w) "prescribed" means prescribed by rules or regulations made under this Act;
- (x) "Province" means the Province of the Khyber Pakhtunkhwa;
- (y) "Provincial Tourism Strategy Board (PTSB)" means the Provincial Tourism Strategy Board established under section 3 of this Act;
- (z) "rules" mean the rules made under this Act;
- (ab) "regulations" mean the regulations made under this Act;
- (ac) "restaurant" means any premises on which the business of supplying food or drink for reward is carried on;
- (ad) "sustainable tourism" means tourism development that meets the needs of present visitors and hosts while protecting and enhancing opportunities for the future;
- (ae) "Tourism Police" means the Tourism Police established under section 24 of this Act;
- (af) "tourism products, activities and services" means any of the good, activities or service, as specified in the Schedule-1 of this Act;
- (ag) "Tourism Agencies" means the Provincial Tourism Strategy Board (PTSB), the Authority, the Appellate Tribunal, the Tourism Police, or any other institutions, or business units established by Government under this Act;
- (ah) "tourist attraction" means any site in the Province including a stream, a river, a water way, a water fall, a spring, an archeological site or historical or religious site, or a view point that is generally known as a tourist attraction by the local community;
- (ai) "tourist" means a person travelling to and staying in a place outside his usual abode for leisure, business or other purpose, not being a work-related activity remunerated from within the place visited; and
- (aj) "tourist destination" means any site, area, road, walkway, trek, street, bazaar, water fall, lake, town or city that receives enough tourists to cause emergence of business or ventures or services targeting tourists as clients.

Saima Sultani
 Assistant District
 Law Officer
 Government of PK

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 Bashir Khan Wajid B/C 09-2053
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 High Court Peshawar

CHAPTER-II
PROVINCIAL TOURISM STRATEGY BOARD

3. Provincial Tourism Strategy Board (PTSB).--(1) On the commencement of this section under sub-section (3) of section 2, Government shall within two months notify a Provincial Tourism Strategy Board (PTSB) consisting of:

- | | | |
|-----|---|----------------------|
| (a) | Chief Minister, Khyber Pakhtunkhwa; | Chairman |
| (b) | Minister for Sports, Tourism, Culture, Youth Affairs, Archaeology and Museum, Khyber Pakhtunkhwa; | Member |
| (c) | Minister for Finance, Khyber Pakhtunkhwa; | Member |
| (d) | Minister for Environment and Wildlife, Khyber Pakhtunkhwa; | Member |
| (e) | Chief Secretary, Khyber Pakhtunkhwa; | Member |
| (f) | Secretary to Government Sports, Tourism, Culture, Youth Affairs, Archaeology and Museum Department, Khyber Pakhtunkhwa; | Member |
| (g) | Secretary to Government Environment and Wildlife Department, Khyber Pakhtunkhwa; | Member |
| (h) | three private sector professionals, having at least ten years' experience of tourism, culture and heritage, one of whom shall be a woman; and | Members |
| (i) | Director General of the Authority. | Member-cum-Secretary |

Saima Subhan
Secretary
Law Department
KPK

(2) The members at clause (h) in sub-section (1) shall be nominated by the Chairman, and shall hold office for a term of three years and shall be eligible for another term.

(3) A member, at clause (h) of sub-section (1) may resign from his office by writing under his hand addressed to the Chairman.

(4) No person shall be appointed or remain as a member of the Board, if he-

- (a) is of unsound mind;
- (b) has applied to be adjudicated as an insolvent and his application is pending;
- (c) is an un-discharged insolvent;
- (d) has been convicted by a Court of law, for an offence involving moral turpitude;
- (e) has been debarred from holding any office, under any provisions of law for the time being in force; or

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Bashir Khan, Wazir B/C 09-2053
ADVOCATE
High Court Peshawar

27

(f) has conflict of interest with such position.

(5) Any vacancy caused due to death, resignation or removal of any member at clause (h) of sub-section (1), shall be filled in through appointment of another person as member and such appointee shall hold such office for the unexpired term of his predecessor.

(6) In addition to mandatory meetings, the Chairman may convene the meeting on such date, time and place, as he may deem appropriate.

(7) The Board shall hold mandatory meetings in order to approve and recommend Provincial Tourism Strategy to Government for approval.

(8) Seven members would constitute the quorum and decision shall be made by simple majority. In case of tie, the Chairman shall have casting vote.

4. Provincial Tourism Strategy.—(1) The Provincial Tourism Strategy Board shall, on the advice of the Authority, recommend to Government, a Provincial Tourism Strategy, at least once every five years, in accordance with which the tourism sector shall be developed, managed, marketed and regulated.

(2) The Provincial Tourism Strategy shall provide for the principles, objectives, indicators and incentives for the development, management and marketing of sustainable tourism in the Province and shall, in particular, provide for,—

- (a) measures to facilitate and enhance domestic, regional and international tourism;
- (b) priority areas for tourism development, capacity building and training;
- (c) innovative schemes, incentives and ethics, to be applied in the development and marketing of sustainable tourism, cultural heritage including public private partnerships;
- (d) provincial tourism research and monitoring priorities and information systems, including,—
- (i) collection and management of tourism data and information;
 - (ii) procedures for gathering tourism data and the analysis and dissemination of tourism information; and
 - (iii) tourism management information systems;
- (e) measures necessary to ensure equitable sharing of benefits in the tourism sector;
- (f) adaptation and mitigation measures, to avert adverse impacts of climate change on tourism and tourism products and services; and
- (g) such common approaches in tourism development, marketing and regulation that lead to regional cooperation.

Saima Sohail
Assistant Secretary
Law Department

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Bashir Khan Wazir B/C 09-2053
NOTARY
High Court Peshawar

(3) Provincial Tourism Strategy Board (PTSB) shall periodically review the Provincial Tourism Strategy and publish a revised Provincial Tourism Strategy, when approved by Government.

(4) All Government Departments and other relevant public bodies in the Province shall, when exercising or performing any statutory functions, take into account and give effect to the Provincial Tourism Strategy.

5. Functions of Provincial Tourism Strategy Board (PTSB)---(1) Provincial Tourism Strategy Board (PTSB) shall assess the impact of any development initiative or project, public or private, and issue guidelines, to bring such development initiative or project in line with Provincial Tourism Strategy. Guidelines so issued, shall be binding on any public or private entity undertaking such an initiative or project.

(2) The Provincial Tourism Strategy Board (PTSB) shall only take cognizance of any initiative or project under sub-section (1), when the Authority makes a clear case that such a project or initiative is in violation of Provincial Tourism Strategy and refers such a project or initiative to the Provincial Tourism Strategy Board (PTSB).

CHAPTER-III
ESTABLISHMENT OF KHYBER PAKHTUNKHWA
CULTURE AND TOURISM AUTHORITY

Saima Sobhli
Assistant Legal Officer
L.A. Government of K.P.K.

6. Establishment---(1) Government shall, by notification in the official Gazette, establish an Authority in accordance with the provisions of this Act, to be known as the Khyber Pakhtunkhwa Culture and Tourism Authority.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both moveable and immovable in its name and shall, by its name, sue and be sued.

7. Headquarter of the Authority---The Headquarter of the Authority shall be at Peshawar.

8. Status of the Corporation, Directorates and Institute--- Subject to sub-section (1) of section 1 of this Act, after the notification of the establishment of the Authority in the official Gazette,

(i) the Authority shall take over the administrative, financial and regulatory control of all the activities, offices, projects, centers etc. of the Corporation, Directorates and Institute in the prescribed manner and as result thereof.

(a) the instruments establishing the Corporation and Institute shall cease to have its effect and the Corporation shall be wound up in the prescribed manner and as result thereof and the laws in force, and

(b) the Directorates shall cease to be the Attached Department of the Department and shall be merged in to the Authority;

(ii) all moveable and immovable assets and liabilities of the Corporation, Directorates and Institute including furniture, fixtures, equipment, vehicles, record, data etc shall be

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Bashir Khan Wazir B/C 09-2053
ADVOCATE
High Court Peshawar

29

transferred to the Authority and the ownership of such assets shall vest in the Authority;

(iii) once the Secretary of the Department certifies that the Authority has developed requisite capacity to handle the functions, activities, offices or centers of the Corporation, Directorates and Institute, the provisions of clauses (i) and (ii) above shall be given effect under sub-section (3) of section 1 of this Act.

(iv) upon taking over by the Authority, the employees of the Corporation, Directorates and Institute shall be dealt in the following manner:

(a) Government shall create Surplus Pool in the Establishment Department for employees of the Directorates till the retirement of the last incumbent. These employees shall continue to enjoy all the benefits currently admissible to them and shall be entitled to receive their salary and other benefits, as if they had continued to work against existing cadres or posts. The services of such employees shall either-

(i) be utilized by Government in such offices as controlled by Government under such terms and conditions as decided by Government, or

(ii) absorb the services of the employees of the Directorates at the discretion of Government in various Government Departments, and in such case, the right of promotion shall be in accordance with rules and regulations and terms and conditions of the cadres into which they are absorbed;

~~3.3~~ the employees of the Corporation and Institute shall be examined by a Scrutiny Committee, to be constituted in the prescribed manner and recommend to the Board for their retention in the service of the Authority or otherwise. Existing employees performance to be evaluated and better human resource be retained. Those Corporation and Institute employees, whose services are regularized under this Act by the Board, shall be governed in accordance with the service regulations, to be made under this Act and

(c) to avoid rapid staff turnover, the staff of re-organized Corporation should be hired on long term contract. There should be periodic performance evaluation and those failing to achieve targets shall be removed.

provisions administrative and financial liability of the Corporation until the provisions relating to taking over by the Authority have been given effect under this Act.

(i) the Corporation, Directorates and Institute their field offices, sub-offices and employees shall continue to

Saima Sohail
Assistant Legal Officer
Law Department KPK

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High Court Peshawar

30

provide services and perform functions without any interruption; and

(ii) the Directorate of Tourist Services, Khyber Pakhtunkhwa shall continue their functions under the Khyber Pakhtunkhwa Hotel and Restaurants Act, 1976 (Khyber Pakhtunkhwa Act No. LXXXI of 1976), the Khyber Pakhtunkhwa Tourists Guide Act, (Khyber Pakhtunkhwa Act No. XXVI of 1976) and the Khyber Pakhtunkhwa Travel Agencies Act, 1976 (Khyber Pakhtunkhwa Act No. XXX of 1976) until section 57 has been given effect in term of subsection (3) of section 1 by Government under this Act.

(2) After notification has been issued regarding taking over:-

(i) the Board shall authorize the officers of the Authority to act as Controllers, Deputy Controllers and Assistant Controller for the purpose of hotels, restaurants, travel agencies and tourists guide under relevant regulations; and

(ii) all fees, rents, charges, which were being charged, levied and collected by the Corporation, Directorates and Institute, or their field offices and sub-offices, shall to be charged, levied and collected by the Authority. Every person liable to pay such fees, rents, charges and accumulated arrears and receivables shall continue to make payment thereof until revised, withdrawn or varied under this Act.

Saima Saeed
Assistant Secretary
Law & Government Dept.

(3) All actions required for giving effect to the provisions of this Act, including administrative and financial transition shall be completed within one-year of the commencement of this Act.

10. Objectives of the Authority.— The Authority shall,-

(1) in relation to entire Province,-

- (a) promote, preserve and revive cultural heritage, cultural traditions, values, festivals and dialects;
- (b) formulate guidelines and prescribe measures for sustainable tourism;
- (c) regulate tourism products and services;
- (d) promote the cultural and religious heritage;
- (e) promote and protect cultural and religious diversity of the Province;
- (f) promote and preserve tangible and intangible cultural assets, values and traditions of the Province;
- (g) register, license and grade all hotels in the Province;

B

ATTESSED
Bashir Khan Wazir B/C 09-2053
ADVOCATE
H.K. COURT, PESHAWAR

(31)

- (h) develop and implement, in consultation with relevant stakeholders, criteria for standardization and classification of tourism products;
 - (i) develop and implement a code of practice for the tourism sector;
 - (j) ensure development of high quality tourism sector;
 - (k) monitor and assess tourist products for adherence to sound principles and practices of sustainable tourism;
 - (l) map, record, document and publish cultural assets of the Province;
 - (m) provide facilities, incentives, services and recreation to tourists;
 - (n) regulate travel agencies, travel agents, tour operators and tourist guides, in the prescribed manner; and
 - (o) perform any other functions that are ancillary to the object and purpose of this Act.
- (2) in relation to Integrated Tourism Zones,-
- (a) develop, publish and implement regulations in respect of spatial planning;
 - (b) develop, publish and implement regulations in respect of building code to ensure, as far as possible, the continuity of local architecture;
 - (c) approve and notify any measures to control entry into any Integrated Tourism Zone in order to preserve and sustain either cultural identity of a zone or to sustain carrying capacity of such zone;
 - (d) develop, publish and implement regulations in respect of municipal obligations;
 - (e) develop, publish and implement regulations in respect of forests, mountains, water features, lakes, waterfalls, flora and fauna;
 - (f) develop, publish and implement regulations in respect of wildlife and biodiversity; and
 - (g) approve:
 - (i) master plan to regulate "land use";
 - (ii) "building code" to regulate construction of structures including buildings;
 - (iii) "forestry code" to protect and preserve forests and trees;
 - (iv) "municipal code" to regulate municipal obligations and services; and
 - (v) a code for protection and preservation of wildlife and

Saima Sultani
Advocate
Law Office
F-10, Islamabad, KPK

ATTESTED
Bashir Khan BIC 09-2053
ADVOCATE
High Court Peshawar

biodiversity

(3) Any other function assigned by Government for furtherance of the purposes of this Act.

11. Power to acquire land.—The Authority shall have the power to acquire land for the purpose of promoting tourism and developing resorts, skiing facilities, hotels and other tourism related activities. Any and all of these activities shall be deemed to be a public purpose in terms of section 6 of the Land Acquisition Act, 1894 (Act No. 1 of 1894).

12. Board of Directors.—(1) The administration, management and general control of the Authority shall vest in the Board of Directors, to be known as the Board, which shall exercise all powers and do all acts and things for furtherance the objectives of this Act.

(2) All acts of the Board, whether executive or otherwise, shall be expressed and taken in the name of the Authority.

(3) The Department shall, by notification in the official Gazette, constitute the Board, which shall consist of the following members, namely:

Saima Sohrab
Assistant Secretary
Law Department

- (a) Minister Sports, Culture, Tourism and Youth Affairs; Chairman
- (b) Additional Chief Secretary, Planning and Development Department; Member
- (c) Secretary to Government, Sports, Culture, Tourism and Youth Affairs Department; Member
- (d) Secretary to Government, Finance Department; Member
- (e) Secretary to Government, Local Government, Election and Rural Development Department; Member
- (f) Secretary to Government, Environment and Wild Life Department; Member
- (g) Secretary to Government, Irrigation Department; Member
- (h) Secretary to Government, Communication and Works Department;
- (i) three professionally qualified, members, each from discipline of tourism, culture and heritage, one of whom must be a woman; Members
- (j) four members from private sector, one of whom shall be a Chartered Accountant and one shall be a woman; and Members

ATTESTED
Bashir Khan Vazir BIC 09-2053
ADVOCATE
High Court Peshawar

Director General of the Authority

Member-Secretary

(4) The members at clause (a) and (b) of sub-section (3), shall be nominated by the Chief Minister, and shall hold office for a term of three years from the date of assumption of office. The term shall be eligible for another term.

(5) A member at clause (a) and (b) of sub-section (3) may resign from his office, by writing under his hand and seal addressed to the Chief Minister, or may be removed from the Board through a vote of simple majority.

(6) No person shall be appointed or remain as a member of the Board if he:

- (a) is of unsound mind;
- (b) has applied to be declared as an insolvent and his application is pending;
- (c) is an undischarged insolvent;
- (d) has been convicted by a Court of law for an offence involving moral turpitude;
- (e) has been convicted for committing any offence under any provision of law for the time being in force; or
- (f) has been convicted for any offence under any provision of law for the time being in force.

Handwritten signature and stamp on the left margin.

Any vacancy in the office of a member at clause (a) and (b) of sub-section (3) shall be filled in the appointment of another person in his stead. The person so appointed shall hold such office for the unexpired term of the member.

13. Powers and functions of the Board:—(1) The Board shall:

- (a) ensure the efficient and effective performance of the functions of the Authority;
- (b) approve and review the policies of the Authority;
- (c) manage and control the assets of the Authority in accordance with the provisions of this Act;
- (d) receive and manage grants, donations and endowments made to the Authority;
- (e) determine the provisions to be made for capital and current expenditures of the Authority;
- (f) determine the provisions to be made for the funds of the Authority.

(g) subject to the provisions of the Finance Department, vest any income of the Authority in the funds of the Authority.

(h) determine the terms and conditions of the appointment and remuneration of the employees of the Authority.

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Bashir Khan Wajir B/C-09-2053
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Peshawar

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34

Authority, subject to the provisions of Chapter-VIII of this Act;

provide strategic guidance for working of the Authority; and

exercise supervision and control over the affairs of the Authority

(2) Subject to the provisions of Chapter-VIII of this Act, the Board shall be responsible for:

(a) determination of regulations for the control of the employees of the Authority;

(b) determination of the sanctioned strength, creation and deletion of posts, and the terms and conditions of services of the employees of the Authority; and

(c) authorizing any orders, other than orders in pursuance of any general or special delegation made, which involves re-organization or change in the status of offices in the Authority, or any change in the terms and conditions of service, or the statutory rights and privileges of the employees of the Authority.

(3) The Board on its own, or through an officer of the Authority so authorized, shall have the power to approve:

(a) relinquishment, remission, assignment or grant of No. Objection Certificate (NOC) for the purpose of tourism activities;

(b) grant of lease of land of the Authority;

(c) imposition and collection of tourism levy, fee, fine or cess including those collected through ticketing;

(d) flotation of loans;

(e) budget and provisions thereof;

(f) appointment of support staff, advisors, consultants and experts and specify terms and conditions for their service and engagement; and

(g) authorization of any member of the Board to supervise internal audit of receipts and expenditure of the Authority.

(4) The Board shall have the power to approve all developmental schemes, programmes and proposals submitted by offices of the Authority conceived from its own revenue resources while schemes, programmes and proposals that are to be funded from the annual development programmes shall be brought to the attention of PDWP and DDWP as the case maybe.

(5) The Board on its own, or through an officer so authorized shall have the power to execute schemes of construction, equipment, maintenance, repairs, internal electrification and fixation of rent of all Authority buildings, residential and non-residential, including tents, camping pods, tourist resorts, gazebos, skill centres, sports, rest houses and those properties entrusted to the

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Bashir Khan
Advocate
High Court Peshawar

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High Court Peshawar

Authority from other Departments from time to time, or those whose repair and maintenance is essential with or without any ownership of the Authority.

35

(5) The Board on its own or through an officer so authorized shall have the powers to accord technical sanction in respect of schemes for construction, maintenance and repairs of roads, bridges, ferries, rope-ways and dams sites, for the development and promotion of tourism.

(7) The Board may constitute Committees and Sub-Committees for any functions of the Authority.

(8) Subject to the provisions of this Act, the Board may, by resolution, generally or in any particular case, delegate to any Committee of the Board or to any member, officer, employee or agent of the Authority, to exercise any of the power or the performance of any of the function or duty of the Authority under this Act.

(9) Members of the Board shall be paid a fee for attending the meetings of the Board or all meetings of its Sub-Committees at such rates as determined by the Board.

14. Disclosure of Interest.—A member of the Board, who has an interest in a matter for consideration before the Board shall, disclose in writing, the nature of that interest and shall not participate in any deliberations of the Board, or the Authority, relating to that matter.

15. Conduct of meetings and procedure of the Board.—Procedure for conducting meetings of the Board, making decisions and recording decisions of the Board shall be governed by Schedule-II of this Act.

16. Establishment of regional offices.—The Authority shall establish such regional offices as the Board may determine with the approval of the Department.

17. Appointment of Director General.—(1) Government shall appoint the Director General of the Authority for a period of three years on such terms and conditions as it may determine and may extend his appointment for a second term of three years.

Provided that the entire period of appointment shall not exceed six years.

(2) The Director General shall be a Civil Servant not below the rank of BS-19 or a reputed professional from private sector with at least fifteen years post-qualification experience, preferably in tourism promotion.

(3) In case of appointment of the Director General from the private sector, his terms and conditions shall be settled by the Board, for a term of three (03) years, until and unless such term is modified by the Board for reasons to be recorded in writing.

Provided that the terms and conditions of the Director General can be modified by the Board, only once, during the period of his tenure.

18. Functions of the Director General.—The Director General shall,

(a) be the Secretary of the Board; —

(b) manage affairs of the Authority under the general supervision of the Board;

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- (c) maintain discipline and order in the Authority;
- (d) enforce policy, rules, regulations and decisions of the Board;
- (e) perform as Principal Accounting Officer of the Authority;
- (f) maintain books of accounts for receipts into and expenditure from the Fund;
- (g) be responsible for the day to day administration of the affairs of the Authority and the performance of its functions under this Act;
- (h) perform any other function as determined by the Board; and
- (i) prescribe Key Performance Indicators for the staff of the Authority.

**CHAPTER-IV
POWER TO CREATE SPECIAL PURPOSE AUTHORITIES**

Saima Sohal
Secretary
Government KPK

19. Establishment of special purpose Authorities.—(1) Government may establish in the prescribed manner, special purpose Authority(ies) limited either by the geographic location, or scope of work or both to carry out purposes of this Act:

Provided that in case of creation of such Authorities, the jurisdiction of Khyber Pakhtunkhwa Culture and Tourism Authority shall accordingly be reduced.

(2) Rules establishing such Authorities shall clearly lay out the purposes, scope, functions, powers and organizational structure of such Authorities:

Provided that such rules shall provide the Authorities so created, to function as independent business units.

(3) Nothing in sub-section (1) and (2), shall stop Government from determining the relationship of such Authorities with the Board, the Fund or the Tourism Police.

**CHAPTER-V
INTEGRATED TOURISM ZONES**

20. Declaration.—(1) Government on the recommendation of Provincial Tourism Strategy Board shall have the power to declare, by notification in the official Gazette, any area within the Province, as an "Integrated Tourism Zone".

(2) Whenever declaring any area as Integrated Tourism Zone, Government shall specify as nearly as possible, the situation and limits of such area by roads, rivers, streams, bridges or any other readily intelligible boundaries or by GPS coordinates.

Provided that when an area is notified, then it shall be dealt in accordance with the provisions of this Act, and the following laws or certain provisions of laws shall have no jurisdiction in the said area.

37

- (i) the Khyber Pakhtunkhwa Urban Immovable Property Tax Act 1958 (Khyber Pakhtunkhwa Act No. V of 1958);
- (ii) the Khyber Pakhtunkhwa River Protection Ordinance, 2002 (Khyber Pakhtunkhwa Ord. No. III of 2002);
- (iii) the Khyber Pakhtunkhwa Forest Ordinance, 2002 (Khyber Pakhtunkhwa Ord. No. XIX of 2002);
- (iv) provisions to be notified by Government from time to time under the Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013);
- (v) the Khyber Pakhtunkhwa Food Safety Authority Act, 2014 (Khyber Pakhtunkhwa Act No. X of 2014);
- (vi) the Khyber Pakhtunkhwa Environmental Protection Act, 2014 (Khyber Pakhtunkhwa Act No. XXXVIII of 2014);
- (vii) the Khyber Pakhtunkhwa Wildlife and Bio-diversity (Protection, Preservation, Conservation and Management) Act, 2015 (Khyber Pakhtunkhwa Act No. I of 2015); and
- (viii) the Khyber Pakhtunkhwa Mineral Sector Governance Act, 2017 (Khyber Pakhtunkhwa Act No. XXVI of 2017).

(3) The Authority may consult other relevant departments in formulating rules relating to Integrated Tourism Zones.

(4) - In case any territory or any part thereof, intended to be notified as an Integrated Tourism Zone or part of Integrated Tourism Zone, is a reserved forest within the meaning of sub-section (2) of section 33 of Khyber Pakhtunkhwa Forest Ordinance, 2002 (Khyber Pakhtunkhwa Ord. No. XIX of 2002), notification under sub-section (1) of this section shall constitute a declaration of such territory or any part thereof as 'no longer a reserved forest' and such forest shall cease to be a reserved forest in terms of section 27 of the Khyber Pakhtunkhwa Forest Ordinance, 2002 (Khyber Pakhtunkhwa Ord. No. XIX of 2002)

(5) In case any territory or any part thereof, intended to be notified as an Integrated Tourism Zone, or part of Integrated Tourism Zone is a National Park within the meaning of section 29 of the Khyber Pakhtunkhwa Wildlife and Biodiversity (Protection, Preservation, Conservation and Management) Act, 2015 (Khyber Pakhtunkhwa Act No. I of 2015), notification under sub-section (1) of this section shall constitute a declaration of such territory or any part thereof as 'no longer a National Park', and such park shall cease to be a National Park in terms of section 35 of the Khyber Pakhtunkhwa Wildlife and Biodiversity (Protection, Preservation, Conservation and Management) Act, 2015 (Khyber Pakhtunkhwa Act No. I of 2015).

Provided that a declaration under sub-section (1) of this section shall be deemed to have a prior consent of the Board in terms of section 35 of the Khyber Pakhtunkhwa Wildlife and Bio-diversity (Protection, Preservation, Conservation and Management) Act, 2015 (Khyber Pakhtunkhwa Act No. I of 2015).

21. Transition period. - (1) In order to ensure that no legal or administrative vacuum is created in the management of an area or territory, falling in an Integrated Tourism Zones, there shall be a transition period of not more than three years from the date of declaration of any area or territory as Integrated Tourism Zones under sub-section (1) of section 20 of this Act:

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 ADVOCATE
 High Court Peshawar

Saima Sohal
 Assistant Registrar
 Law Department
 Peshawar

38

Provided that such transition period can be reduced by the Authority once it is satisfied that it has requisite field presence to take over functions currently entrusted to Environment Department, Local Government, Mineral Department and Irrigation Department and the Authority so notifies the said Departments of its field capacity to handle those functions:

Provided further that Environment Department, Local Government, Mineral Department and the Departments of the Government shall be absolved of their responsibilities in respect of areas falling in Integrated Tourism Zones from the date of notification by the Authority under this section, or on expiry of three years transition, whichever is earlier.

(2) Declaration under sub-section (1) of section 20 shall empower the Authority, its agents, its contractors or any person authorized by the Authority on its behalf, to enter upon and work in an Integrated Tourism Zone as per direction of the Authority without recourse to or permission of any other Government Agency, or department, and all Departments, or Agencies of Government shall have to cooperate with the work of the Authority, its agents, its contractors or persons so authorized under this section.

(3) During the transition period, nothing in section 20 or in this section shall absolve Environment Department, Local Government, Mineral Department and Irrigation Department of their current responsibilities towards the area or territory falling in the Integrated Tourism Zones except for works and actions which are authorized by the Authority to be taken in the said Integrated Tourism Zones.

Saima Siddiqi
Assistant Secretary
Law Department, KPK

22. Responsibility to preserve forest, wildlife and bio-diversity.--While approving regulations under clause (e), (f) and (g) of sub-section (2) of section 10 of this Act for the Integrated Tourism Zones, the Authority shall ensure to achieve a healthy balance between the objectives of promoting tourism and preserving forest, wildlife, bio-diversity and local cultural heritage.

23. Tax incentives.--In order to incentivize investment in Integrated Tourism Zones, Government may, through notification in the official Gazette, exempt any businesses or class of businesses from any of the provincial taxes or levies to such extent and for such terms and under such conditions as may be determined by Government.

CHAPTER-VI TOURISM POLICE

24. Establishment of Tourism Police.--(1) Tourism Police shall be established as a specialized police wing in the Authority under the supervision and general command of the Authority.

(2) The Authority shall create the posts of Police personnel of Tourism Police and also abolish the posts as required.

(3) The Authority shall requisition on deputation basis necessary senior and junior rank police from Police Department to act as Tourism Police for the purpose of this Act:

Provided that the Authority may hire their own Tourism Police once the Authority has developed the requisite capacity.

(4) The Police to be posted in the Tourism Police Wing shall be selected by keeping in view the education, behavior and physical fitness.

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(5) The Police officers and official posted in the Tourism Police shall undergo tourism-facilitation training courses to be designed by the Police Department in consultation with the Authority. The Tourism Police shall wear distinctive uniform.

(6) The Officers and others ranks posted in Tourism Police shall continue to remain part of the cadre to which they belong in Khyber Pakhtunkhwa Police and their promotion and other benefits available to them as a member of the said cadre shall not be varied on account of their selection and posting to Tourism Police.

(7) The Officers so posted may serve in Tourism Police for a period of three years and may be extended for further two years.

(8) All expenditures on Tourism Police shall be borne on the budget of the Authority including any additional incentives paid to its employees as per the incentive structure, determined by the Board.

25. Functions and powers of Tourism Police. (1) Tourism Police shall,

- (i) facilitate the tourists by imparting information about location, transport system, facilities, legal assistance, shopping centers accommodation, cultural norms and medical help;
- (ii) perform watch and ward function in tourist destinations in order to curb activities of touts, beggars, unauthorized hawkers, pickpockets, eve teasers, anti-social elements and fraudsters and for this purpose, the Tourism Police shall maintain effective patrolling of tourists' destination and shall provide necessary security to the tourists;
- (iii) keep an updated record of known eve teasers, fraudsters, unauthorized tour guides, harassers and other disreputable elements for each destination;
- (iv) have the power to stop the entry of known eve teasers from a tourist destination or a part thereof; for the purpose, a police officer not below the rank of Superintendent of Police shall have the power to issue orders to restrict entry of such person(s) into any tourists destinations or a part thereof;
- (v) act as first responder in case of any incident and shall hand over the delinquent to the local Police for legal action;
- (vi) write an incident report and handover the culprit to the regular Police Station;
- (vii) in the event, a case is registered by or against the tourist, Tourism Police shall facilitate and provide legal assistance to the tourist;
- (viii) have all the powers of facilitation and regulation available to Traffic Police in area of its deployment under Provincial Motor Vehicle Ordinance, 1965; and
- (ix) receive claims and complaints by the tourists and will either resolve the same on its own or liaise with the concerned

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High Court Peshawar

90

agencies to get it resolved.

(2) The operation of Tourism Police shall be governed under the regulations to be prescribed by the Authority and until such regulations are prescribed, under Standing Operation Procedures (SOPs) already issued or to be issued by the Inspector General of Police, Khyber Pakhtunkhwa.

CHAPTER-VII
ESTABLISHMENT OF TOURISM FUND

26. Fund of the Authority.---(1) There shall be established a Fund to be known as "Tourism Fund", which shall vest in the Board and to which shall be credited, all sums received by or on behalf of the Authority.

(2) The sources of income of the Fund shall be,--

- (a) development and operational grants allocated by Government;
- (b) rents and profits payable or accruing to the Authority from immovable property vested in or managed by it;
- (c) proceeds or any other profits from bank accounts and investment of the Fund;
- (d) gifts, grants or contributions by individuals and institutions accepted with the approval of the Board;
- (e) proceeds of fee charged by the Authority for advisory services, registration, affiliation, licensing;
- (f) fee, fines, cess imposed for violation of rules or regulations including any fine imposed and collected through Tourism Police or through ticketing;
- (g) sale proceeds and royalty on publications of the Authority;
- (h) funds received and charged upon tourism activities and services;
- (i) grants, donations, bequests or other gifts made to the Fund; and
- (j) monies from any other source approved by Government.

Saima Sarraf
Assistant Secretary
Tourism Department KPK

(3) The Fund shall be kept in such Schedule Bank as approved by the Board.

(4) Monies credited to the Fund shall be expended with the approval of the Board or in accordance with regulations approved by the Board.

27. Object and purpose of the Fund.---The object and purpose of the Fund shall be to,--

- (a) finance the development of tourism products in the Province;
- (b) finance the marketing of the Province as a tourist destination;

18 ATTESTED
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ADVOCATE
High Court Peshawar

41

- (c) finance such incentives and such activities of the Tourism Police as permissible under this Act and to the extent approved by the Board;
- (d) finance the tourism research, tourism intelligence and the provincial tourism information management system;
- (e) finance training and capacity development activities either of tourism hospitality training institutions as may be established under this Act or transferred to the Authority, or by outsourcing to the private sector;
- (f) mobilize resources to support tourism-related activities;
- (g) finance the development of Integrated Tourism Zone(s);
- (h) finance the acquisition of land for the development and promotion of tourism and culture;
- (i) finance the preservation and development of cultural and religious;
- (j) finance research and development of cultural activities; and
- (k) finance the expenditures on Tourism Agencies.

Bashir Khan
 Asst. Secy. (Tourism)
 Govt. of Punjab
 Lahore

28. Budget.—Before the commencement of a financial year, the Director General shall, prepare in the prescribed manner, a budget for that year and lay it before the Board for approval.

Provided that conditional grants from Government or other sources shall be shown separately in the budget and shall be governed by conditions provided therein.

**CHAPTER VIII
EMPLOYEES AND PAY STRUCTURE**

29. Structure of the employees.—As far as feasible, the Authority shall have a lean structure and shall perform its functions by engaging private sector.

30. Wings in the Authority.—(1) The Authority may have inter-alia following wings:

- (a) Planning;
- (b) Marketing;
- (c) Procurement;
- (d) Engineering;
- (e) Contract Management;
- (f) Human Resource Management and Administration;
- (g) Finance and Accounts;
- (h) Culture;
- (i) Inspection and Monitoring; and
- (j) Police.

(2) The Authority may create any new wings as and when deemed necessary.

31. Method of appointment, pay structure and terms and conditions of the employees.—The Board shall prescribe the terms and conditions, method of appointment and pay structure of the employees of the Authority through regulations:

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42

Provided all the appointment in the Authority shall be made through competitive process and if a civil servant is selected for appointment to a post, he shall be appointed by way of transfer on deputation and for salary purposes he may either opt for the salary, allowances and special allowance in the Authority or for the market salary in which case he should take extraordinary leave from the Department.

32. Status of the employment.— All employees shall be hired on contract basis for a specific period terminable on one months' notice by either side or payment of one month salary in lieu thereof.

Provided that no extension shall be made in the service of contract employees however he shall be eligible for fresh hiring under a new contract.

Provided further that in fresh hiring, preference shall be given to candidates who have served in the Authority with good performance reports.

CHAPTER-IX TOURISM LICENSING AND TOURISM LEVIES

33. Licensing.—(1) The Authority shall frame licensing regulations for tourism products, activities and services as listed in the Schedule-I of this Act and until and unless such regulations are framed, all existing regulatory instruments applicable to tourist products listed in Schedule-I shall remain in force.

(2) Operators of tourists products, listed in Schedule-I shall be entitled for an adjustment period of one year from the date of commencement of relevant licensing regulations by the Authority.

(3) Before the expiry of the adjustment period, all operators of tourists products for whom specific regulations are issued shall obtain a license for continuing their business operation.

34. Procedure for Licensing.—(1) A person seeking a license or any variation of a license held by him shall apply to the Authority in such manner as may be prescribed by the Authority.

(2) The Authority may, on receipt of an application under sub-section (1), investigate or require the submission of such further information as it may be necessary in order to enable it to consider the application.

(3) The Authority shall, in considering the license application, have regard to the material considerations which include,-

- (a) the protection of fragile environmental resources, ecosystems; and
- (b) the safety of tourists in the tourist destinations.

(4) After considering an application made under this section, the Authority may grant to the applicant the license or variation applied for or may refuse the grant, and may attach to the license granted, terms or conditions as the Authority may consider necessary.

(5) The license, unless earlier suspended or cancelled in the prescribed manner, shall remain valid for a period of two years and may be renewed in such manner and on payment of such fee, as are prescribed by regulations.

20

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ADVOCATE
High Court Peshawar

SA... BASHIR
Assistant Commissioner
Law Enforcement, KPK

(6) An application for the renewal of an existing licence shall be made at least two months before the expiry date of the existing licence.

35. Transfer of License.—(1) A licence issued under this Act may be transferred by the Authority, after fulfillment of all the pre requisites for transfer as prescribed by regulations.

(2) A transfer of a licence under this section shall take effect on such date as the Authority has notified of that transfer.

36. Suspension of license.—The Authority may, subject to section 37, suspend a licence issued under this Act where,—

- (a) a licensee is being investigated in relation to an offence under this Act;
- (b) an allegation of misconduct has been made against a licensee;
- (c) the licensee made a false declaration in the application for the license;
- (d) the licensee has become defaulter of any of the financial institution(s) or declared by the Court of law as bankrupt;
- (e) the licensee has become unsound mind or is incapable to perform the affairs of tourism products;
- (f) on death of the licensee till, the license is transferred by the Authority to his legal heirs; or
- (g) a licensee has contravened any of the provision of this Act.

37. Cancellation of license.—The Authority shall, cancel a licence where a licensee,—

- (a) is convicted of an offence under this Act or the regulations made there under; and
- (b) ceases to be qualified for the issuance of a licence under this Act.

38. Representation to the Authority.—Authority shall not suspend or cancel a licence unless the Authority has given the licensee at least fifteen days notice of its intention to suspend or cancel the licence and has provided the licensee an opportunity of correction time of the observations raised by the authorized officer of the Authority.

39. Effect of suspension or cancellation.—A person, whose licence has been suspended or cancelled shall not engage in the tourism products, activities and services in respect of which the licence was granted during the duration of suspension or after cancellation.

40. Records.—(1) The Authority shall keep and maintain registers of,—

- (a) all regulations, standards and plans for the Integrated Tourism Zones;
- (b) all licences and permits issued under this Act;

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Rashid Khan Wajidi BIC 09-2053
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Court Peshawar

Sairat Shah
Assistant Secretary
The Department of
Tourism

43

44

- (c) tourism facilities, activities and services licensed under this Act;
- (d) all public and private sector institutions or associations involved in tourism or tourism-related activities and services;
- (e) all institutions offering tourism and hospitality training; and
- (f) any other documents as so decided by the Board.

(2) All registers kept and maintained under this section shall be open for inspection by members of the public during official working hours, at the Authority offices or an office designated by the Authority, on the payment of a fee to be prescribed by the Authority.

41. Tourism levy.— (1) The Authority may, by regulations, require the payment of a tourism levy from persons engaged in tourism products or from tourists.

(2) The tourism levy may differ in relation to different tourism products or different destinations.

(3) A tourism levy may contain provisions as to the evidence by which a person's liability to the tourism levy, or his discharge of that, may be, and as to the time at which any amount payable by any person shall become due.

(4) All monies received in respect of the tourism levy shall made part of the fund established under section 26 of this Act.

Shiraz Sohal
Assistant Registrar
Law Department
L.P.K.

CHAPTER-X

ANNUAL ESTIMATES, ACCOUNTS AND AUDIT

42. Financial year.—The financial year of the Authority shall be of twelve months period ending on the 30th June in each year.

43. Annual estimates.— (1) At least three months before the commencement of each financial year, the Authority shall cause to be prepared estimates of the revenue and expenditures for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Authority for the financial year and in particular, the estimates shall provide for:-

- (a) the payment of the salaries, allowances and other charges in respect of the staff;
- (b) the proper maintenance of its assets;
- (c) the maintenance, repair and replacement of the equipments; and
- (d) the creation of reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of any other matters.

44. Accounts, audit and annual reports.— (1) The Authority shall cause to be kept all proper books and records of accounts of the income, expenditure,

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assets and liabilities of the Authority.

(2) Subject to provisions of this Act, the accounts of the Authority shall be maintained and audited in the manner applicable to Government Departments.

(3) Board may commission a special audit of the Fund in addition to the annual audit, by requesting Auditor General's office or by engaging an external auditor from the market.

(4) The Director General shall, not later than 15th day of September, in each year, prepare a report regarding performance of the Authority during the preceding year ending on 30th day of June.

(5) The report shall be submitted to the Board for consideration in its annual review meeting in November.

CHAPTER XII OFFENCES, PENALTIES AND ENFORCEMENT

45. Enforcement and Prosecution.— (1) An Authorized Officer shall have the power to summon any person engaged in the business of any tourism products, activities and services.

(2) The Tourism Police authorized under section 49 of this Act shall have the power to arrest any offender if the offence is cognizable under Schedule-III of this Act and in so doing, he shall have all the powers available to a Station House Officer under Criminal Procedure Code, 1898 (Act No. of 1898).

(3) An Authorized Officer shall have the power to seal any premises or part thereof or seize any property in relation to an offence or for failure to pay fine or tourism levy, duly imposed under this Act.

(4) An Authorized Officer for the purpose of this Act shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of persons and examining them on oath;
- (b) compelling the production of documents;
- (c) receiving evidence on affidavits; and
- (d) issuing commission for examination of witnesses.

(5) The Authorized Officer may either impose fine against the person who violates any of the provisions mentioned in Part-A, Schedule-III of this Act.

(6) In case of failure to pay the fine the other officer may file a complaint in the Court as provided in Part-B of Schedule-III.

46. Cognizance of an offence.— (1) No Court shall take cognizance of an offence punishable under this Act, except upon a complaint, made in writing by an officer of the Authority so duly authorized.

(2) Procedure governing cognizance, bail and trial will be in accordance with Schedule -III of this Act.

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ADVOCATE
High Court Peshawar

46

47. Power to amend Schedules.— Government may amend any of the Schedule of this Act from time to time on the recommendations of the Authority.

48. Authorized Officer.— (1) Authority may, in writing, declare any employee of Government or an employee of any entity controlled by the Government, to be an Authorized Officer for the purposes of carrying out the provisions of this Act:

Provided that authorization made under this section shall specify exhaustively the limits of such authorization.

(2) Notwithstanding foregoing sub-section (1), the Authority may declare any class of officers of District Administration or Police, as authorized officers for specific purposes.

49. Appellate Tribunal.— (1) Any person aggrieved by any decision or order of the Director General, or any other officer of the Authority, acting under powers of the Authority, may, within fifteen (15) days of the receipt of such decision or order may appeal to an Appellate Tribunal to be established under this Section.

Saima Sami
Advocate
Law Office
KPK

(2) Government shall notify an Appellate Tribunal consisting of:

- (a) Secretary Sports, Youth Affairs, Tourism, Culture, Archaeology and Museum, Khyber Pakhtunkhwa; Chairperson
- (b) one private member of the Board to be nominated by the Chief Minister; Member
- (c) one private person familiar with tourism business to be appointed by Chief Minister; and Member
- (d) Deputy Secretary Archaeology, Museums, Culture, Sports, Tourism and Youth Affairs Department. Member-cum-Secretary

(3) Salary and other benefits of the member-cum-secretary will be determined by the Board and shall be paid out of the Authority Fund.

(4) Members of the Appellate Tribunal shall be paid a fee for attending proceedings of the Tribunal or all meetings relating to, at such rates as determined by the Board.

(5) The decisions made by the Tribunal shall be appealable before the Peshawar High Court.

50. Bar to proceeding.— No suit, prosecution or other legal proceedings shall lie against the Authority, or any of its employees for anything done or intended to be done in good faith under this Act.

ATTESTED
Bashir Khan Wazir
ADVOCATE
High Court Peshawar

CHAPTER-XIII
GENERAL PROVISIONS

47

51. Common seal.—The common seal of the Authority shall be kept in safe custody and shall not be used, except on the order of Director General, or an officer authorized by him for the purpose.
52. Act to override.—The provisions of this Act shall have an overriding effect, notwithstanding anything contained in any other law, rule, regulation or bye-law, or any other instrument having the force of law, rule, regulation or bye-law having bearing on the subject, for the time being in force.
53. Removal of difficulties.—Government may, on the recommendations of the Board, by order, provide for the removal of any difficulty which may arise in giving effect to the provisions of this Act.
54. Indemnity.—No suit, prosecution or other legal proceeding shall lie against the Authority or any of the officer authorized by the Authority in respect of anything which is done or intended to be done in good faith under this Act, the rules or regulations made under this Act.
55. Power to make rules.—Government may make rules for carrying out the purposes of this Act.
56. Power to make regulations.—Board may make regulations for carrying out the purposes of this Act.
57. Repeal.—The Khyber Pakhtunkhwa Tourists Guide Act, (Act No. XXVI of 1976), the Khyber Pakhtunkhwa Travel Agencies Act, 1976 and the Khyber Pakhtunkhwa Hotel and Restaurant Act, 1976 (LXXXI of 1976) shall be deemed to be repealed from the date of adjustment period provided under section 33 of this Act expires in respect of regulations made by the Authority to govern the businesses (i.e. tourist operators, hotels and restaurants) currently being dealt with by the said laws.
58. Saving clause.—Save as otherwise specifically provided, nothing in this Act, or any repeal and revocation effected thereby shall affect or be deemed to affect anything done, action taken, investigation or proceedings commenced, order, rules, regulations, bye-laws, appointment, conveyance, mortgage, deed, document or agreement and contract made or saved, fee levied, tax imposed or assessed, scheme prepared or executed, resolution passed, direction given, proceedings taken or instrument executed or issued, under or in pursuance of any law, rules, regulations or any other instrument repealed or revoked by this Act and any such thing, action, investigation, proceedings, order, rule, regulation, bye-laws, appointment, conveyance, mortgage, deed, document, agreement, contract, fee, tax, resolution, direction, proceedings or instrument, suits, rights or claims shall, if in force at the commencement of this Act and not inconsistent with any of the provisions of this Act, continue to be in force, and have effect as if it were respectively done, taken, commenced, made, directed passed, given, executed, instituted, acquired or issued under this Act.

58
Bashir Khan Wazir
Advocate
High Court Peshawar

ATTESTED
Bashir Khan Wazir BIC 09-2053
ADVOCATE
High Court Peshawar

48

SCHEDULE-I

(see section 2, clause (a))

PROVISIONS RELATING TO TOURISM PRODUCTS

(a) Class "A" Enterprises

- (i) Hotels;
- (ii) Members clubs;
- (iii) Motels;
- (iv) Inns;
- (v) Hostels;
- (vi) Health and spare sorts;
- (vii) Retreat lodges;
- (viii) Eco lodges;
- (ix) Service flats;
- (x) Service apartments;
- (xi) Cottages;
- (xii) Holiday cottages;
- (xiii) Tented camps;
- (xiv) Cultural homeland centers;
- (xv) Villas on rent;
- (xvi) Home stays;
- (xvii) Guesthouses; and
- (xviii) Entertainment facilities i.e. cinemas, theaters, restaurants and other food and beverage services including cafes etc. in Integrated Tourism Zones;

~~SAULI KHAN
Assistant Director
Law Department
KPK~~

(b) Class "B" Enterprises

- (i) Tour operators;
- (ii) Tourist service vehicle hire;
- (iii) Tourist service Helicopter hire;
- (iv) Paragliding service;
- (v) Travel agency;
- (vi) Water sports;
- (vii) Boat excursions;
- (viii) Jump line;
- (ix) Zip Line; and
- (x) Rafting.

(c) Class "C" Enterprises

- (i) Game fishing outfitters;

ATTESTED

Shahar Khan Wazir B/C 09-2053

shahar

49

- (ii) Enterprises offering camps and camping equipment for hire.
- (iii) Nature parks.
- (iv) Nature trails, ponds.
- (v) Amusement parks.
- (d) Class "D" Enterprises
 - (i) Local traditional boat operators;
 - (ii) Professional photographers;
 - (iii) Curio vendors;
 - (iv) General vendors; and
 - (v) Adventure Tour Operators.
- (e) Class "D" Enterprises
 - Conference and event services.
- (f) Class "E" Enterprises
 - Tourism, handicrafts, skill training institutions.

Assistant Secretary
Law Department

ATTES
Basfir Khan
Wazir BIC 09 2053
ND
High Court Peshawar

SCHEDULE-III
(see section 45 and 46)

(51)

PART-A

TABULAR STATEMENT OF OFFENCES

S.No	Offence	Fine through ticketing (In Rs.)	Through
1.	Violation of licensing regulations governing Tourism Products (a)(i),(a)(iii), (b)(i), (c) (i) and (c) (v) of Schedule-I of this Act.	500,000	Authorized Officer
2.	Violation of licensing regulations governing Class 'A' tourism products excluding (a)(i),(a)(iii) of Schedule-I of this Act.	50,000	Authorized Officer
3.	Violation of licensing regulations governing Class 'B' tourism products excluding (b)(i) of Schedule-I of this Act.	10,000	Authorized Officer
4.	Violation of licensing regulations governing Class 'C' tourism products excluding (c) (i) and (c) (v) of Schedule-I of this Act.	10,000	Authorized Officer
5.	Violation of tourism levy regulations.	Two times of amount of levy	Authorized Officer
6.	Violation of regulations relating to littering.	10,000	Authorized Officer
7.	Violation of 'building code' regulations in the Integrated Tourism Zones.	50,000	Authorized Officer
8.	Violation of 'land use' regulations in the Integrated Tourism Zones.	500,000	Authorized Officer
9.	Violation of 'forestry code' regulations in the Integrated Tourism Zones.	50,000	Authorized Officer
10.	Violation of Wildlife and bio-diversity regulations in the Integrated Tourism Zones.	50,000	Authorized Officer
11.	Violation of municipal obligations regulations in the Integrated Tourism Zones.	10,000	Authorized Officer
12.	Violation of pollution regulations in Integrated Tourism Zones.	50,000	Authorized Officer
13.	Violation of General Prohibitions.	10,000	Authorized Officer
14.	General Penalty.	10,000	Authorized Officer

Syaira Sobhan
 Advocate
 Law Office
 Peshawar

ATTESTED
 Bashir Khan Wazir B/C 09-2053
 ADVOCATE
 High Court Peshawar

52

(PART-B)

TABULAR STATEMENT OF OFFENCES

S.No	Offence	Whether Bailable or not	Imprisonment on conviction by the Court	Fine on conviction by the Court upto (in Rs.)	By what Court Triable
1.	Violation of licensing regulations governing Tourism Products (a)(i),(a)(iii), (b)(i), (c) (i) and (c) (v) of Schedule-I of this Act.	Non-bailable	Upto 3 months	5 million	Magistrate I st Class
2.	Violation of licensing regulations governing Class 'A' tourism products excluding (a)(i),(a)(iii) of Schedule-I of this Act.	Bailable	Upto 3 months	01 million	Magistrate I st Class
3.	Violation of licensing regulations governing Class 'B' tourism products excluding (b)(i) of Schedule-I of this Act.	Bailable	Upto 3 months	100,000/-	Magistrate I st Class
4.	Violation of licensing regulations governing Class 'C' tourism products excluding (c) (i) and (c) (v) of Schedule-I of this Act.	Bailable	Upto 3 months	50,000	Magistrate I st Class
5.	Violation of tourism levy regulations.	Bailable	Upto 3 months	Five times of amount of levy	Magistrate I st Class
6.	Violation of regulations relating to littering.	Bailable	Upto 3 months	500,000	Magistrate I st Class
7.	Violation of 'building code' regulations in the Integrated Tourism Zones.	Bailable	Upto 3 months	500,000	Magistrate I st Class
8.	Violation of 'land use' regulations in the Integrated Tourism Zones.	Non-Bailable	Upto 6 months	5 million	Magistrate I st Class
9.	Violation of 'forestry code' regulations in the Integrated Tourism Zones.	Non-Bailable	Upto 3 months	As per assessment	Magistrate I st Class
10.	Violation of Wildlife and bio-diversity regulations in the Integrated Tourism Zones.	Bailable	Upto 3 months	100,000/-	Magistrate I st Class
11.	Violation of municipal obligations regulations in the Integrated Tourism Zones.	Bailable	Upto 3 months	50,000/-	Magistrate I st Class
12.	Violation of pollution regulations in Integrated Tourism Zones.	Non-Bailable	Upto 3 months	5 million	Magistrate I st Class

Sheraz Sadiq
Assistant Advocate
Law Department
MLPK

ATTESTED
Bashir Khan B/C 09-2053
ADVOCATE
High Court Peshawar

53

13.	Violation of General Prohibitions.	Bailable	Upto 6 months	100,000/-	Magistrate " Class
14.	General Penalty.	Bailable	Upto 3 months	100,000/-	Magistrate " Class

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

ATTESSED
Bashir Khan Muzvi B/C 09-2053
ADVOCATE
High Court Peshawar.



GOVERNMENT OF KHYBER PAKHTUNKHWA,
SPORTS, TOURISM, ARCHAEOLOGY, MUSEUMS &
YOUTH AFFAIRS DEPARTMENT.

54
11/11/22

Dated Peshawar 25th July, 2022

NOTIFICATION:

No. SO(Tourism)/6-82(A)/ACU2022/ 3224

Consequent upon the certification of Director General Culture and Tourism Authority (CTA) on 10.05.2022 that the Authority has developed the requisite capacity to take over the function of "Directorate of Tourist Services", I, as Secretary Sports, Culture, Tourism, Archaeology, Museums and Youth Affairs Department to the Government of Khyber Pakhtunkhwa, am of the considered opinion that pursuant to Section 8, clause (iii) of the Khyber Pakhtunkhwa Tourism Act, 2019 that the Culture and Tourism Authority has developed requisite capacity to handle activities, offices or centers etc of Directorate of Tourist Services, Khyber Pakhtunkhwa, and therefore certify this fact towards the purposes of clauses (i) and (ii) of Section 8 read with Section 1, sub-section (3) of the Khyber Pakhtunkhwa Tourism Act, 2019 as invoked by the Provincial Cabinet in its meeting held on 21.07.2021 along with following directions to implement with immediate effect:

- (a) Culture and Tourism Authority shall take over the Administrative, Financial and Regulatory control of all activities, offices, projects, sub-offices, assets including all movable and immovable assets and liabilities including furniture, fixtures, equipment, vehicles, records, data etc of the Directorate of Tourist and it shall be ensured by the Director General Culture and Tourism Authority as well as Director General, Directorate of Tourist Services that smooth handing / taking takes place immediately.
- (b) Section 57 read with section 33 of the Khyber Pakhtunkhwa Tourism Act, 2019 shall take effect after the transition period mentioned in the said Act;
- (c) Case may be taken up with Establishment Department in accordance with Section 8 (iv)(a) of the Khyber Pakhtunkhwa Tourism Act, 2019;
- (d) The Tourism Department to move case / summary for amendment in Rules of Business, 1885 to delete the Directorate of Tourist Services from the list of Attached Departments; and

25/7/22

ABCA

(e) The above may be notified as speaking order and all departments may be informed, so that consequential and ancillary actions may be taken accordingly where required especially by Finance, Establishment and Planning & Development Departments.

Duty #:	1234567
Date:	25/07/22
Ving	Forwarded to
Admin	
Finance	
Tourism	
ITZ	
Procurement	
Event	
HRMS	

Secretary to Government of
Khyber Pakhtunkhwa Sports, Tourism,
Archaeology, Culture, Museums & Youth Affairs
Department

ATTESTED
Bashir Khan Wazir, C/C
ADVOCATE
High Court Peshawar

11 E
SS

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority.

PESHAWAR, MONDAY, 25th APRIL, 2022.

**GOVERNMENT OF KHYBER PAKHTUNKHWA, SPORTS, TOURISM, ARCHAEOLOGY, MUSEUMS & YOUTH AFFAIRS
DEPARTMENT.**

NOTIFICATION

Dated: 25th April, 2022.

No. SO(T)/6-17/SSRC/2022/4279-88/—In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989, the Sports, Tourism, Culture, Archaeology, Museums and Youth Affairs Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notification No. SO (DTS) 6-17/2017/Service Rules, dated: 31.10.2017, the following amendments shall made, namely:

1711

9-2053

47

ATTESTED
Bachir Khan, Jaz BIC-09-2053
D.O. 09/04/22
High Court Peshawar

95

AMENDMENTS

(i) against Serial No. 1, in Column No. 5; for the existing entries, the following shall be substituted, namely:

"By transfer from amongst the PMS/PAS officers."

(ii) after Serial No.1, as so amended, the new entries shall be inserted; in the respective Column, namely:

"1-A	Additional Director General (BPS-19).	---	---		By promotion, on the basis of seniority-cum-fitness from amongst the holders of the posts of Deputy Director, having seven years service as such. Provided that if no suitable person is available for promotion then by transfer from amongst the PMS or PAS officers.
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(iii) against Serial No. 2; in Column No. 5, after the words and comma "Assistant Directors", the words, hyphen and comma "Assistant-cum-Controller", shall be inserted;

(iv) against Serial Nos.4 and 5, for the existing entries, the following shall be substituted, namely:

ATTACHED
Bashir Khirani
ADVOCATE
H.H.C. Court Peshawar

45

4	Assistant Controller/ Assistant Director/ Assistant Director-cum- Assistant Controller (BPS-17).	At least Second Class Master's Degree in Tourism and Hospitality, Economics, Public Administration, Business Administration or its equivalent qualification from a recognized University.	22 to 32 years.	(a) Eighty percent (80%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Inspector and Assistant with three years service as such; and (b) twenty percent (20%) by initial recruitment. Note: For the purpose of promotion a joint seniority list of the holders of the posts of Assistant and Inspector shall be maintained.
5	Assistant Director (IT) (BPS-17) And Assistant Director (Planning) (BPS-17).	—	—	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Computer Operator with three years of service as such.

- (v) against Serial No. 7, in Column No. 5, the words "Assistant and" shall be deleted;
- (vi) against Serial No.6, in Column No.5, for the existing entries, the following shall be substituted, namely:

ATTESTED
Bashir
2022

85

- "(a) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Accountant with three years service as such; and
(b) fifty percent (50%) by initial recruitment.";

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

- "(a) Eighty percent (80%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Sub-Inspector with three years service as such; and
(b) twenty percent (20%) by initial recruitment.";

(viii) against Serial No.10, in Column No.5, for the existing entries, the following shall be substituted, namely:

- "(a) Seventy five (75%) percent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Senior Clerk with at least three years service as such; and
(b) twenty five (25%) percent by initial recruitment.";

ATTENDED
Bashir Khan Wani
ALVOCATE
High Court Peshawar

69

(ix) against Serial No.13, in Column No.5, for the existing entries, the following shall be substituted, namely:

"(a) Eighty percent (80%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Assistant Sub-Inspector with three years service as such; and
(b) twenty percent (20%) by initial recruitment.";

(x) against Serial No.18, in Column No. 5, for the existing entries, the following shall be substituted, namely:

"(a) Eighty percent (80%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Head Constable with three (3) years service as such; and
(b) twenty percent (20%) by initial recruitment.";

(xi) against Serial No.19, 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 holders of the posts of Constable with at least three years service as such"; and

ATTESTED
Bashir Khan
High Security

29

(xii) against Serial No.20, in Column No.5, for the existing entries, the following shall be substituted, namely:

- (a) Twenty percent (20%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Chowkidar, subject to eligibility as per required qualification; and
- (b) eight percent (8%) by initial recruitment.

Secretary
Government of Khyber Pakhtunkhwa
Sports, Tourism, Culture, Archaeology, Museums and
Youth Affairs Department.

Printed and published by the Manager,
Staty. & Ptg. Dept., Khyber Pakhtunkhwa, Peshawar.

ATTC
Bashir Khan W
A.T. 10/11/2022
High 53



THROUGH SPECIAL MESSENGER / OUT TODAY

61

**GOVERNMENT OF KHYBER PAKHTUNKHWA,
SPORTS, TOURISM, ARCHAEOLOGY, YOUTH AFFAIRS &
MUSEUMS DEPARTMENT.**

13-A, KHYBER ROAD, PESHAWAR CANTT:

No: SO (T)6-17/SSRC/2022/4327-30
Dated Peshawar the 25th April, 2022

To:

The Controller,
Government Stationary and Printing Press Department,
Peshawar

Subject: **AMENDMENTS IN SERVICE RULES OF DIRECTORATE OF TOURIST SERVICES, KHYBER PAKHTUNKHWA**

Dear Sir

I am directed to refer to the subject noted above and to enclose herewith a copy of Law, Parliamentary Affairs & Human Rights Department letter No. DLO-III/Kc/Reg: 1(12)76(A)/3188-90/WE dated 24.02.2022 and this Department Notification No. SO(T)6-17/SSRC/2022/4279-88 dated 25.04.2022 regarding amendments in Service Rules of Directorate of Tourist Services, Khyber Pakhtunkhwa.

2. I am further directed to request to publish the said Notification in the extraordinary issue of the Khyber Pakhtunkhwa Government Gazette and provide 15 copies of the same to this Department for official use, please.

Encl As Above:

F. W. Khan
25.4.22
(LUQMAN)
SECTION OFFICER (TOURISM)

Ends No & Date even:

Copy forwarded to:

- (1) Deputy Legislation Officer-III, Law, Parliamentary Affairs & Human Rights Department w.r.f to her letter as cited above.
- (2) PS to Secretary, Sports & Tourism Department, Khyber Pakhtunkhwa.
- (3) Master File.

F. W. Khan
SECTION OFFICER (TOURISM)

ATTESTED
Bashir Khan Waqar BIC 09-2053
ADVOCATE
High Court Peshawar

ATTESTED
Bashir Khan Waqar

Annexure D

Subject:- MINUTES OF THE MEETING OF THE DEPARTMENTAL PROMOTION COMMITTEE (DPC) HELD ON 07-11-2022 UNDER THE CHAIRMANSHIP OF SECRETARY SPORTS & TOURISM DEPARTMENT

A meeting of the Departmental Promotion Committee of the Directorate of Tourist Services Khyber Pakhtunkhwa, Peshawar was held on 07.11.2022 at 11.00 AM under the Chairmanship of Secretary Sports, Tourism, Archaeology, Museum & Youth Affairs Department regarding the promotion of the following employees of the Directorate of Tourist Services, Khyber Pakhtunkhwa. "F" (62)

- I. Promotion to the post of Assistant Director IT (BS-17) and Assistant Director Planning (BS-17) on regular basis.
- II. Appointment to the post of Law Officer (BS-17) on acting charge basis.
- III. Promotion / appointment to the post of Assistant Director / Assistant Controller / Assistant Director-cum-Assistant Controller (BS-17) on regular basis / acting charge basis.

2. The following Officers attended the meeting:

- i. Mr. Muhammad Tahir Orakzai, Secretary Sports & Tourism Deptt: Chairman
- ii. Mr. Yasir Ali Khan, Additional Secretary, Sports & Tourism Deptt: Member
- iii. Mr. Afsar Ali Shah Director General, Directorate of Tourists Services, Peshawar: Member
- iv. Syed Habib-ul-Hassan Gillani, DS (Regulation-I), Establishment Department: Member
- v. Mr. Muhammad Saleem, DS (Regulation-I), Finance Department: Member
- vi. Mr. Fazal Wahid, Section Officer (Tourism-I), Sports & Tourism Department: Member

I. Promotion to the post of Assistant Director IT (BS-17) and Assistant Director Planning (BS-17) on regular basis.

3. The meeting commenced with the recitation from the Holy Quran. The Chair welcomed the participants. The Director General Directorate of Tourist Services, Khyber Pakhtunkhwa informed the forum that there are two (02) sanctioned posts of Assistant Director (IT/Planning) (BS-17) in the Directorate of Tourist Services, Khyber Pakhtunkhwa. 100% quota comes under the share of promotion as per Amended Services Rules of Directorate of Tourist Services KP, duly notified vide Sports & Tourism Department Notification dated 25.04.2022.

4. Accordingly, all working papers and seniority lists of Computer Operators (BS-16) have been prepared by the Directorate of Tourist Services, Khyber Pakhtunkhwa. The seniority list of said cadre is final and free from all sort of litigations. The proposed official i.e. Mr. Muhammad Amaid and Mr. Shaher Yar Khan, Computer Operators (BS-16) have completed their required length of services and there are no adverse remarks recorded in the ACRs of the officials.

ATTESTED
Bashir Khan Wazir, B/159-3653
ADVOCATE
High Court Peshawar

5. The Representative of Finance Department has raised some observations on the Services Rules of DTS, which have been duly vetted by Law Department and approved by the Establishment Department being the approving authority. Representative of Finance Department is of the view that both Computer Operators (BS-16) are proposed for promotion, but one is being proposed as AD-IT (BS-17) while other is being proposed to be promoted as AD-Planning (BS-17), to the extent of promotion of Computer Operators to AD-IT (BS-17) seems justified but how can a Computer Operator (BS-16) be promoted to the AD-Planning (BS-17) being different cadre.

(63)

6. After detailed discussion, the Departmental Promotion Committee made the following recommendation:-

S.No	Name of Official	From the post	Recommendation
1.	Mr. Muhammad Amjad	Computer Operator (BS-16)	The DPC deferred the promotion of said officials due to objections raised on the Service Rules of DTS by Representative of Finance Department and DG DTS was directed to rectify the Service Rules of DTS.
2.	Mr. Shaher Yar Khan	Computer Operator (BS-16)	

Intend

II. Appointment to the post of Law Officer (BS-17) on acting charge basis:

7. The Director -General, Directorate of Tourist Services, Khyber Pakhtunkhwa informed the forum that there is one (01) sanctioned post of Law Officer (BS-17) in the Directorate of Tourist Services, Khyber Pakhtunkhwa. 50% quota comes under the share of promotion and 50% quota comes under the share for initial appointment as per Service Rules of Directorate of Tourist Services, KP duly notified vide Sports & Tourism Department Notification dated 31.10.2017.

8. Accordingly, working paper and seniority list of Legal Assistant (BS-16) has been prepared by the Directorate of Tourist Services, Khyber Pakhtunkhwa. The seniority list of said cadre is final and free from all sort of litigations. The proposed official i.e. Mr. Muhammad Waqar Khan, Legal Assistant (BS-16) has not completed the required length of services, which is short by 03 months as required under the Service Rules of DTS.

9. After detailed discussion, the Departmental Promotion Committee made the following recommendation:

ATTESTED
Bashir Khan Wazir (C 09-2053)
ADVOCATE
Mardan District Shawar

64

S.No	Name of Official	From the post	Recommendation
1.	Mr. Muhammad Waqar Khan	Legal Assistant (BS-16)	The DPC deferred the appointment of the said official to the post of Law Officer (BS-17) due to non-completion of required service length.

III. Promotion / appointment to the post of Assistant Director / Assistant Controller / Assistant Director-cum-Assistant Controller (BS-17) on regular basis / acting charge basis:

10. The Director General Directorate of Tourist Services, Khyber Pakhtunkhwa informed the forum that there are six (06) sanctioned posts of Assistant Director / Assistant Controller / Assistant Director-cum-Assistant Controller (BS-17) in the Directorate of Tourist Services, Khyber Pakhtunkhwa. 80% quota comes under the share of promotion and 20% quota comes under the share for initial appointment as per amended Services Rules of Directorate of Tourist Services, KP duly notified vide Sports & Tourism Department Notification dated 25.04.2022.

11. Accordingly, all working papers and seniority lists of Assistants (BS-16) & Inspectors (BS-16) have been prepared by the Directorate of Tourist Services, Khyber Pakhtunkhwa. The seniority list is final and free from all sort of litigations. Two of the proposed official i.e. (i) Mr. Raza Khan and (ii) Mr. Rafiq Ahmad have completed their required length of services and three of the officials i.e. (i) Mr. Muhammad Bilal (ii) Mr. Hisham Khan and (iii) Mr. Asif Shehzad (Inspectors BS-16), are short of service length. Further there are no adverse remarks recorded in the ACRs of the officials.

12. After detailed discussion, the Departmental Promotion Committee made the following recommendation:-

S.No	Name of Official	From the post	Recommendation
1.	Mr. Raza Khan ATTESTED Bashir Khalil Wazir ADVC Dh. Ch. Peshawar	Superintendent (ACB) (BS-17)	The said official has already been promoted to the post of Superintendent (BS-17) on ACB in light of Service Rules of DTS duly notified on 31.10.2017 and there is no provision for promotion of said official to the post of Assistant Director / Assistant Controller / Assistant


			Director-cum-Assistant Controller in the Amended Service Rules of DTS notified on 25.04.2022. Hence the Committee deferred the promotion of said incumbent.
2	Mr. Rafiq Alimad	Assistant (BS-16)	The DPC deferred the promotion of said official due to objections raised on the Service Rules of DTS by Representative of Establishment & Finance Department and DG DTS was directed to rectify the Service Rules of DTS.
3	Mr. Muhammad Bilal	Inspector (BS-16)	The DPC deferred the appointment to the post of Assistant Director / Assistant Controller / Assistant
4	Mr. Hisham Khan	Inspector (BS-16)	Director-cum-Assistant Controller (BS-17) on acting charge basis, due to non-completion of required service length as per Service Rules of DTS.
5	Mr. Asif Shahzad	Inspector (BS-16)	

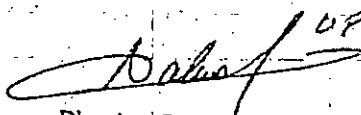
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13. DG, DTS apprised the forum that objections on Service Rules are not the mandate of DPC as the Service Rules are already approved by the concerned committee (SSRC). Furthermore, as per Promotion Policy, 2009, promotion cases cannot be deferred due to the said reason.

14. The meeting ended with the vote of thanks from the Chair.

Signatures


Additional Secretary,
Sports Tourism Arch:
Museums & Youth Affairs


Director General,
Directorate of Tourist Services,
Khyber Pakhtunkhwa

ATTESTED
Bashir Khan Wazir BIC-09-2053
ADVOCATE
High Court Peshawar

[Signature]
Deputy Secretary (Reg-I)
Establishment
Department

[Signature]
Deputy Secretary (Reg-I)
Finance
Department

[Signature]
Section Officer (Tourism-I)
Sports & Tourism
Department

66

[Signature]
SECRETARY/CHAIRMAN
Government of Khyber Pakhtunkhwa
Sports, Culture, Tourism, Archaeology, Museums &
Youth Affairs, Department

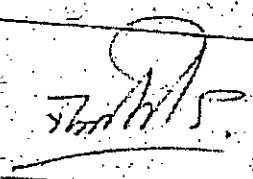
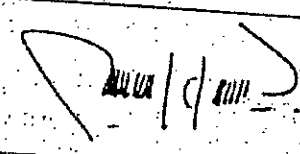
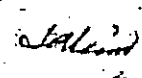
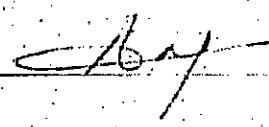
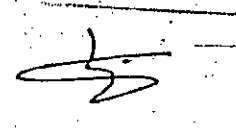
ATTESTED
Bashir Khan Wazir BIC 09-2053
ADVOCATE
High Court, Peshawar

GOVERNMENT OF KHYBER PAKHTUNKHWA
SPORTS, TOURISM, CULTURE, YOUTH AFFAIRS,
ARCHEOLOGY & MUSEUMS DEPARTMENT

(67)

DPC MEETING ATTENDANCE SHEET

Date: 07/11/2022

Name	Designation & Department	Contact	Signature
Yasir Ali Khan	As. (Sports & Tourism)	0300-5959407	
Syed Habib ul Hassan Gillani	DS (Reg-I) Establishment	091-9210904 0331-9201642	
Muhammad Saleem	DS (Reg-I) F.D		
Afsar Ali Shahi	D.G. D.T.S	03339179123	
FARAZ WAHID	SO (CI)		

ATTESTED
Bashir Khan Wazir B/C 09-2053
ADVOCATE
High Court Peshawar

(68)
"P"

The Director General
Directorate Of Tourist Services
Peshawar.

Sub: CONVENING DPC MEETING.

Respected sir

With all due respect It is stated that we the employees of this Directorate, list attached herewith are eligible for promotion as per the service rules of DTS and APT rules 1989.

Sir this kind act will further boost our moral and we will act more furiously in the field. Most of us have already achieved target assigned to us and rest are committed to meet the set target before closing of this fiscal year.

Furthermore, the future of the Directorate is also uncertain if we get a step promotion it will secure our services and will be adjusted in higher posts incase employees of this Directorate are sent to surplus pool.

It is therefore requested that DPC meeting may please be convened for determination of suitability of our promotion, We shall be thankful to you for this very kind act.

Kind regards

Dated 12.05.2022

Submitted by Noor Kamal Khan on
behalf

(Signature)

12/05/2022

Directorate Of Tourist Services F.C Plaza
4th Floor Peshawar Cantt.

12 MAY 2022

ATTESSED
Bashir Khan Wazir B/C 09-2053
ADVOCATE
High Court Peshawar

364
signature

(69)

Sl	Name Of Official	Designation
1.	Muhammad Ilyas	Senior Clerk
2.	Halder Ali	Sub Inspector
3.	Waseemzeb Khan	Sub Inspector
4.	Noorkamal Khan	Sub Inspector
5.	Saddam Hussain	Sub Inspector
6.	Muhammad Sirajuddin	Assistant Sub Inspector
7.	Majid Ali Shah	Assistant Sub Inspector
8.	Shamsher Ali Khan	Assistant Sub Inspector
9.	Zeshan Tariq	Assistant Sub Inspector
10.	Hasan Ali Khan	Assistant Sub Inspector
11.	Irfan Ullah Hasan	Assistant Sub Inspector
12.	Amlr Afzal Khan	Assistant Sub Inspector
13.	Amlad Jamil	Assistant Sub Inspector
14.	Huzailf Ali Shah	Head Constable
15.	Noorad Ali	Head Constable
16.	Khalil Ur Rehman	Head Constable
17.	Sharif Ullah	Head Constable
18.	Ataullah Ataullah	Constable
19.	Qadir Khan	Constable
20.	Abbas Mehdi	Constable
21.	Mubarak Zab	Constable
22.	Naseer Khan	Constable
23.	Muchotamill Shah	Constable Dispatch rider
24.	Muhammad Zubair	Constable Chowkidar

cfmmk

Sub

12/18/2022

12/05/2022 -1

Directorate Of Tourist Services F.C Plaza
4th Floor Peshawar Cantt

12 MAY 2022

364
Issued/Dirary No. 364/2022

ATTESTED
Bashir Khan Wazir H/C 09-2053
ADVOCATE
High Court Peshawar

217

~~88~~

97
The application received from the officials of this Directorate (List attached) the officials have requested for convening of DPC meeting in order to determine their suitability for promotion.

Total 23 employees have submitted application for Serial DPC as most of them are eligible only on resultant vacancies.

Submitted for perusal and order please

D/S

16/5/22

Keep pending till promotion/DPC of officials in BPS-16 who are eligible for promotion and whose cases have been submitted to the competent forum i.e DPC to be cleared by Secretary Sports Tourism Department.

16.5.22

(Pst)

ATTESTED

ATTESTED
Bashir Khan Wazir EIC 09-2053
ADVOCATE
High Court Peshawar

IN THE
PESHAWAR HIGH COURT
PESHAWAR



(19)
71

W.P No. _____/2022



1. Mr. Muhammad Amjad
Computer Operator (BPS-16)
2. Mr. Waqar Muhammad Khan
Legal Assistant (BPS-14)
3. Mr. Shaher Yar Khan
Computer Operator (BPS-16)
4. Mr. Raza Khan
Assistant (BPS-16)
5. Mr. Rafiq Ahmed
Assistant (BPS-16)
6. Mr. Muhammad Bilal
Inspector (BPS-16)
7. Mr. Hisham Khan
Inspector (BPS-16)
8. Mr. Asif Shahzad
Inspector (BPS-16)

All permanent employees of the Directorate of Tourist Services, Government of
Khyber Pakhtunkhwa.

.....Petitioners

Versus

1. The Government of Khyber Pakhtunkhwa,
Through Chief Secretary Government of Khyber Pakhtunkhwa,
Civil Secretariat Peshawar.
2. The Establishment Department, Government of Khyber Pakhtunkhwa.
Through Secretary Establishment, Government of Khyber Pakhtunkhwa
Civil Secretariat, Peshawar.
3. The Sports & Tourism Department, Government of Khyber Pakhtunkhwa.
Through Secretary Sports & Tourism, Government of Khyber Pakhtunkhwa
Civil Secretariat, Peshawar..
4. Directorate of Tourist Services, Government of Khyber Pakhtunkhwa
Through Director General Directorate of Tourist Services, Peshawar.
5. Khyber Pakhtunkhwa Culture and Tourism Authority
Through Director General KP Culture and Tourism Authority.--

.....Respondents

ATTESTED
Bashir Khan
ADVOCATE
High Court Peshawar

WRIT PETITION UNDER ARTICLE 192 OF THE CONSTITUTION OF THE
ISLAMIC REPUBLIC OF PAKISTAN, 1973.

wp2773-2022 muhammad amjad vs govt .pdf

ATTESTED
EXAMINER
Peshawar High Court

RESPECTFULLY SUBMITTED:

(3)

72

The petitioners most earnestly request to submit as under:

That the petitioners are employees of the Directorate of Tourist Services with the Government of Khyber Pakhtunkhwa and are working against the designation mentioned against their names in the heading of the petition. The petitioners are Khyber Pakhtunkhwa Province Civil Servants, and are before this Honorable Court for the redress of their grievance in respect of their grievance whereby they seek the enforcement of the provisions of the Khyber Pakhtunkhwa Tourism Act, 2019, for calling of the Departmental Promotion Committee meeting, to consider their cases for promotion before they are sent to the Surplus Pool.

BRIEF FACTS:

1. That the Petitioners are a bonafide law-abiding resident of Khyber Pakhtunkhwa, and being citizen of Pakistan, are entitled to all the constitutional guarantees including but not limited to the fundamental rights of life, right to trade, right to education, due process as well as the right of non-discrimination.

2. That the petitioners are Civil Servants of the Khyber Pakhtunkhwa Province. They were appointed after fulfilment of all codal formalities by the Khyber Pakhtunkhwa Public Service Commission.

Copy of the appointment/promotions are Annex-A

3. That it is important to mention herein that the terms and conditions of service of the petitioners are regulated under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made thereunder. The petitioners are however not before this Honorable Court in respect of anything concerning the terms and conditions of their service.

4. That the Respondents are governmental entities; performing functions in connection with the affairs of the province of Khyber Pakhtunkhwa, as their activities are regulated by the Constitution and the laws made by the Government of Khyber Pakhtunkhwa and the State of Pakistan and are therefore amenable to the constitutional jurisdiction of this Honorable Court.

5. That the Khyber Pakhtunkhwa Assembly promulgated the Khyber Pakhtunkhwa Tourism Act, 2019, which was assented to by the Governor of the province. Under section 6 of the Act there was to be established the Khyber Pakhtunkhwa Culture and Tourism Authority, which has been duly established. Per Section 8 of the Act the Directorates were to be ceased and merged into the Authority and in respect of the employees a surplus pool was to be created. Section 33 of the Act provides for the issue of licensing which is currently managed solely by the Directorate of Tourist Services. Similarly Section 57 of the Act provides for the repeal clause.

Copy of the KP Tourism Act, 2019 is Annex-B,

6. That the services of the petitioners and other employees of the Directorate of Tourist Services were regulated under the Service Rules of the Directorate which were notified vide Notification Dated 31st October, 2017. The service rules were subsequently amended vide notification dated 25th April 2022.

Copy of the Service Rules 2017 and Service Rules 2022 are Annex-C.

7. That the petitioners cases for calling of Departmental Selection Committee were sent through working papers by the Director General on 28th April 2022.

Copy of the Working papers are Annex-D.

8. That subsequently the Director General of the Directorate addressed a letter dated 13th May 2022 to the Section Office of the Tourism and Sports Department, where the plea about actual vacant positions being available was raised. It was further stated that to maximize the functioning, the posts were required to be filled through the petitioners.

Copy of the letter dated 13th May 2022 is Annex-E.

9. That there was an amendment to the Act approved by the provincial cabinet which was

ATTESTE
EXAMINER
Federal High Ct

73

impugned before the Honorable Peshawar High Court and wherein the Honorable Court decided the matter to ensure that Section 8 is implemented in letter and spirit within a period of 3 months.

Copy of the Judgment in Writ Petition No. 4931-P/2021 is Annex-F.

10. That in the pursuance of the judgment there were quite a few anomalies that the departments concerned faced and advice of the law department was solicited on 20th June 2022 by the Sports, Tourism, Archeology, Youth Affairs and Museums Department. The Law Department in turn sought the opinion of the worthy Advocate General Office. Which advice has not been rendered thus far.

Copy of the letter dated 20th June 2022 and dated 01-07-2022 are Annex-G.

11. That another advice was sought by the Sports, Tourism, Archeology, Youth Affairs and Museums Departments in connection with the promotion cases of the petitioners which was sent by the Director General of the Directorate on 24th June 2022. The letter quite unequivocally seeks opinion as to whether the DPC can be called or not by the Department. Copy of the letter dated 24th June 2022 is Annex-H.

12. That a summary in respect of the bone of contention i.e. Section 8 was again moved to the Worthy Chief Minister, wherein proposals were given to rectify the situation. The Law Department in its opinion has held that there is a need of "Principal legislation" in this regard. Copy of the summary and law advice is Annex-I.

13. That a similar issue of Provincial Selection Board came in respect of the working paper for promotion of an employee of the Directorate of Culture and the Law Department gave the opinion to have a principal policy decision on the issue. Copy of the working paper and advice is Annex-J.

14. That in the aftermath of all the above a note was put by the Director General Culture and Tourism Authority to the Secretary Sports, Tourism, Archeology, Youth Affairs and Museums Department. The note in its comprehensiveness goes on very vaguely to say that the Authority has already developed the requisite capacity. And in the same breath states that there would be need of 75 additional staff which will be placed once the decision is taken in respect of the transfer of the directorates. The note very aptly also mentions that the KP Hospitality and Tourism Sector Regulations 2021 are already notified and published in the official gazette and therefore the functions of the Directorate of Tourist Services are to be taken over by the Authority. Copy of the note to Secretary Tourism is Annex-K.

15. That it needs mention that the KP Hospitality and Tourism Sector Regulations 2021 were promulgated on 07th October 2021 and were published in the official gazette on November 03rd 2021. The Act specifically provides for an Adjustment period of one year from the commencement of the relevant regulations. Meaning thereby that unless the adjustment period comes to an end nothing can be done in respect of the Directorate of Tourist Services. Copy of the regulations 2021 are Annex-L.

16. That rather than following the law and ensuring that the rights of the petitioners wherein they were required to have their cases sent for Departmental promotion Committee, a notification was issued by the Secretary Sports, Tourism, Archeology, Youth Affairs and Museums Departments, wherein various decisions have been taken in complete negation of the law. Copy of the notification is Annex-M.

ATTESTED
EXAMINER
Peshawar High Court

17. That it is pertinent to mention herein that similar relief of placing the case before Provincial Selection Board has already been extended to an employee of the Directorate of Tourist Services, therefore it is mandatory that it be extended to the petitioners also.
Copy of the promotion notification is Annex-N.

18. That the petitioners are before this Honorable Court in its extra-ordinary constitutional jurisdiction to call in question the legality of non-calling of the Departmental Selection Committee to consider their cases for promotion and furthermore, to see the legality of the notification of the Secretary Sports, Tourism, Archeology, Youth Affairs and Museums Department dated 25th July-2022 amongst others on the following grounds:

GROUND:

- a. Because the petitioners are aggrieved person within the meaning of Article 199 of the constitution of the Islamic Republic of Pakistan 1973.
- b. Because the Fundamental Rights of the Petitioners have been violated in relation to Article 4, 8, 9, 18 & 25 of the Constitution of the Islamic Republic of Pakistan, 1973. This Honorable Court being the custodian of the Fundamental Rights as enshrined in the Constitution of Islamic Republic of Pakistan, 1973 is the reason the Petitioners seeks redress of their grievance in absence of any other competent forum and thus bring to an end the ordeal the petitioners and their cadre is going through due to the illegal, unlawful and unjust acts and inaction of the Respondents.
- c. Because there is a clear case of discrimination against the petitioners and their cadre, and as the Rights of the Petitioners are secured under Article 8, and the entirety of Part II of the Constitution of the Islamic Republic of Pakistan, its redress falls solely within the ambit of Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.
- d. Because the impugned advertisement is playing foul as it is based in the Notification which in itself is negation of all the norms of the law and rules.
- e. Because the petitioners have not been treated in accordance with law, and their right secured and guaranteed under Law and Constitution have been violated.
- f. Because the law in Section 33 of the Tourism Act provides for the adjustment period of one year, and unless that period expires, no action can be taken against the Directorate of Tourist Services or its employees.
- g. Because there is no bar on the calling of the Departmental Selection Committee to consider the case of the petitioners for promotion. Furthermore, the non-calling of the DPC shall seriously violated and infringe upon the rights of the petitioners.
- h. Because the actions of the respondents are rooted in malice and is in essence violation of principles of Provincial Autonomy which is the cornerstone of our constitution.
- i. Because the judgment of Supreme Court of Pakistan in Anita Turab case (PLD 2013-SC 195) clearly lays down that merit has to be followed and the merit in the instant case is clearly the fact that the petitioners cannot be made to suffer from a illegality through about sub-ordinate legislation.
- j. Because the Respondents cannot be allowed under the law to pass any illegal order, as valuable Rights of the petitioners are involved, which are guaranteed under the Constitution of Islamic Republic of Pakistan 1973.
- k. Because the Petitioner craves for leave to add further grounds at the time of his oral arguments before this Hon'ble Court highlighting further contraventions of the provisions of the Constitution & Laws.

PRAYER:

ATTESTED
EXAMINER
Peshawar High Court

(S)

75

In view of the above, it is humbly prayed that this honorable Court may graciously be pleased

- f. Declare that the inaction of the respondents in non-calling of the Departmental Selection Committee to be illegal, unlawful, without any lawful authority and violative upon the rights of the petitioners.
- g. Direct the respondents to forthwith call the Departmental Selection Committee to consider the cases of the petitioner before they are sent to the surplus pool.
- h. Declare that the notification dated 25-07-2022 of the Respondent No. 3 to be illegal, unlawful and violative of the provisions of the Khyber Pakhtunkhwa Tourism Act, 2019, as well as in negation of the fundamental rights of the respondents.
- i. Declare further that before the completion of the adjustment period as provided by the Khyber Pakhtunkhwa Tourism Act, 2019, the respondents cannot issue notifications for the abolition of the Directorate of Tourist Services.
- j. Any other relief deemed appropriate in the circumstance of the case may also be granted.

Interim Relief:

May it please this Honorable Court to direct the suspension of Notification Dated 25-07-2022 with further directions to the Respondents not to take any adverse action against the petitioners pending disposal of the instant writ petition.

Petitioners:

Through

[Signature]

ALI GOHAR DURRANI
Advocate High Court
aligohar@sdklaw.org
+92-382-929-7427

[Signature]

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The Law Firm of Shah | Durrani | Khattak (A registered law firm)
www.sdklaw.org *info@sdklaw.org* *091-3021049*
231 -A, Street No. 13, New Shami Road, Peshawar.

CERTIFICATE:
It is certify that no such like writ petition has earlier been filed by the Petitioners in this Honorable Court

- LIST OF BOOKS:**
1. Constitution of Islamic Republic of Pakistan 1973
 2. Case Laws as per need

[Signature]
Advocate

Petitioner

ATTESTED
EXAMINER
Peshawar High Court

IN THE
PESHAWAR HIGH COURT
PESHAWAR

Writ Petition No. _____/2021

76

Mr. Muhammad Amjad & Others
Versus
Government of Khyber Pakhtunkhwa through Chief Secretary and others

AFFIDAVIT

I, Rafiq Ahmad S/o Zarf Khan R/o Mohalla Swati, P.O. Dargai, Moherday, Tehsil Dargai, District Malakand, (Petitioner/Attorney Holder), do hereby solemnly affirm and declare on oath that the contents of accompanied writ petition are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Honorable Court.

Rafiq Ahmad

DEPONENT

CNIC No. 15401-7254778-9

Cell: 0315-4331871

Identified By:

Ali Gohar Durrani
Ali Gohar Durrani
Advocate High Court(s)

14858
Certified that the above was verified on solemn affirmation before me on this 16th day of July 2021 at Peshawar, District Malakand, who was identified by *Ali Gohar Durrani*
Who is present
Ali Gohar Durrani
District Court Peshawar
Peshawar, High Court Peshawar

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court Peshawar
The District Court Peshawar

Judgment Sheet
PESHAWAR HIGH COURT, PESHAWAR
(Judicial Department)

WP 2773-P/2022

Muhammad Amjad and 7 others
Versus
Govt of KP through Chief Secretary and 4 others



77

JUDGMENT

Date of hearing 26.01.2023
Petitioner (by) Mr. Ali Gohar Durrani, Advocate
Respondents (by) M/s. Mubashir Manzoor, AAG and Farmanullah Khattak, Advocate along with Sanaulah, Deputy Director (L) and Muhammad Javed, SO (Litigation)

ABDUL SHAKOOR, J: - For the detailed reasons recorded in the main WP 2772-P/2022 titled "Muhammad Ilyas and 23 others vs Govt of Khyber Pakhtunkhwa through Chief Secretary and 4 others", the instant writ petition stands dismissed in terms thereof.

Announced:
26.01.2023

SP

JUDGE

JUDGE

Nazir

(DB)

Hon'ble Mr. Justice Abdul Shakoor, J
Hon'ble Mr. Justice Syed Arshad Ali, J

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Examiner
Peshawar High Court Peshawar
Authorized Under Article 87 of
The Constitution of Pakistan Order 1981

04 FEB 2023

Judgment Sheet
PESHAWAR HIGH COURT, PESHAWAR
(Judicial Department)

WP No.2772-P/2022

Muhammad Ilyas and 23 others

Versus

Govt of Khyber Pakhtunkhwa through Chief Secretary
and 4 others



78

JUDGMENT

Date of hearing 26.01.2023
Petitioner (by) Mr. Ali Gohar Durrani, Advocate
Respondents (by) M/s. Mubashir Manzoor, AAG and
Farmanullah Khattak, Advocate alongwith
Sanaullah, Deputy Director (L) and
Muhammad Javed, SO (Litigation)

ABDUL SHAKOOR, J: - As the instant writ petition and
the following two connected writ petitions involve
common question of law and facts, therefore, we intend to
decide the same through this single judgment;

- i. **WP 2773-P/2022**
Muhammad Amjad and 7 others vs. Govt of KP
through Chief Secretary and 4 others,
- ii. **WP 4119-P/2022**
Israr Ahmad Khan and another vs. Govt of KP
through Chief Secretary and 6 others,

2. The petitioners of all the three writ petitions are
serving in the Directorate of Tourist Services "DTS",
Khyber Pakhtunkhwa against their respective positions;
mentioned in the memo of the petitions. Under S. 8 of

ATTESTED
EXAMINER
Peshawar High Court

2

(79)

newly promulgated Khyber Pakhtunkhwa Tourism Act, 2019 "Act", the said Directorate is ceased and merged into the Khyber Pakhtunkhwa Culture and Tourism Authority "CTA" established under S. 6 of the Act and for its employees, a surplus pool is created. In this regard, the respondents issued impugned Notification dated 25.5.2022 qua abolition of DTS and impugned letters dated 30.8.2022 qua physical and formal handing / taking over of all the assets, projects etc as well as letter dated 04.10.2022 qua delay so occurred in handing/taking over.

3. In the instant and the connected WP 2773-P/2022, the grievances of the petitioners are non-calling of Departmental Selection Committee "DSC" by the respondents to determine the suitability of their promotion despite the fact that similar relief has already been extended to alike employee of DTS by the Provincial Selection Board. As such, they seek issuance of direction to the respondents to call the DSC to consider their cases for promotion before they are sent to surplus pool.

4. The petitioners are also aggrieved of issuance of impugned notification dated 25.5.2022 of the respondents qua abolition of DTS with averments that before the completion of adjustment period as provided under the

ATTESTED
EXAMINER
Peshawar High Court

3

Act, the respondents cannot issue the same. The notification alongwith the impugned letters dated 30.8.2022 and 04.10.2022 qua handing / taking over of assets, projects and record etc of DTS, and its delay have also been impugned by the petitioners of WP 4119-P/2022 before this Court; and seek direction to declare the same to be illegal, unlawful and violative of the provisions of the Act.

80

5. Pursuant to notice, the respondents filed their joint Para-wise comments, wherein they strongly resisted the issuance of the desired writ by stating that the petitioners did not exhaust the legal remedies available to them under the law prior to invoking the writ jurisdiction of this Court; that the petitioners themselves have admitted in the relevant Para of their petitions that guidance have been solicited in case of their promotion, and once the advice is rendered, the respondents will proceed in accordance with the law. In respect of objection so raised by the petitioners qua adjustment period, the respondents stated that S. 33 read with S. 57 of the Act is more relevant to operators of tourist products and subsequent repeal of the laws under which these products are being regulated. Thus, the objection that nothing can be done in respect of DTS

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ATTESTED
EXAMINER
Peshawar High Court

81

during the transition period, is the petitioners' own interpretation of law. The taking over of functions of DTS is a gradual process as elaborated in Sections 8, 9 read with S. 33 and 57 of the Act. So far as, the impugned notification dated 25.5.2022 coupled with impugned letters of handing/taking over of all assets etc are concerned, the respondents commented that S. 9(3) of the Act provides that the administrative and financial transition be completed in one year after the commencement of the Act thus, in line with the provisions of the Act, the impugned notification and letters have rightly been issued.

6. Arguments heard and record carefully gone through.

7. A perusal of the record would suggest that on 30.9.2019, the provincial assembly of Khyber Pakhtunkhwa passed the Khyber Pakhtunkhwa Tourism Act, 2019, which was assented to by the Governor of the Khyber Pakhtunkhwa on 04.10.2019. The aim and purpose of the Act is to provide for a legal framework to promote culture and tourism in the province of the Khyber Pakhtunkhwa. The Act provides for establishment of an Authority known as the Khyber Pakhtunkhwa Culture and

ATTESTED
EXAMINER
Peshawar High Court

82

Tourism Authority under S. 6 after certification and notification of the government; ceasing of Directorate of Culture and Directorate of Tourist Services (attached department of Sports, Culture, Tourism, Youth Affairs, Archaeology and Museums Department) and its merging

in to the said Authority under the provisions of S. 8(i)(b).

The Act has also provided for creation of Surplus Pool for the employees of DTS under S. 8(iv)(a) i.e. that the Government shall create Surplus Pool in the Establishment Department till the retirement of the last incumbent. There is no second opinion that main purpose behind the creation of Surplus Pool for the employees of DTS as is evident from the provisions of the S. 8 is to properly utilize their services in such offices as controlled by the Government, absorb their services at the discretion of Government in various Government Departments or to retain them in the Authority or otherwise after examining by Scrutiny Committee to be constituted in the prescribed manner and recommend to the Board. It is also specifically provided in the ibid section of law that in case of absorption of the employees of DTS, the right of promotion shall be in accordance with rules and regulations and terms and conditions of the cadres into which they are absorbed. It is also pertinent to mention here that the employees of DTS

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ATTESTED
EXAMINER
Peshawar High Court

have earlier filed WP 4931-P/2021 and WP 1551-P/2022 with respect to certain amendment in Section 8 of the Act and advertising 54 posts ranging from Class-IV to BPS-19. However, this Court, while disposing of the said petitions, directed the respondents to strictly follow the law and to decide their cases in terms of Section 8 of the Act within a period of three months positively. Afterwards, the petitioners moved the respondents for convening the meeting of the departmental selection committee to determine their cases for promotion.

8. Now, the brief question as to whether an attached department which is no more in existence and merged in to an Authority while its employees who would be in Surplus Pool, and their fate either absorption, retention or utilization has not so far been decided, how come the respondents would convene a meeting of the Departmental Selection or Promotion Committee for their promotion for the simple reason that on which post and in which department they will be given promotion. When confronted with the situation, neither learned counsel for the petitioners wriggle out of the same nor this Court has found any law or judgments of the superior Courts backing the petitioners' prayer for issuing a writ to the respondents.

ATTESTED
EXAMINER
Peshawar High Court

to call the desired meeting of the Committee in exercise of
Constitutional Jurisdiction of this Court.

(84)

9. So far as, issuance of the impugned notification and letters of the respondents are concerned, needless to mention that under sub-section (3) of Section 9 of the Act, all actions required for giving effect to the provisions of the Act including administrative and financial transition shall be completed within one year of the commencement of this Act. Besides, this Court in its earlier judgment rendered in the ibid writ petitions directed the respondents to strictly follow the law; therefore, the respondents being administrative authority were bound to play positive role while complying with the provisions of the law and judgment of this Court. Further, the abolition of DTS and its merging in to the Authority was requirement of the law and undeniably when a department is going to abolish there must be some handing/taking over of its assets etc for proper management or otherwise, which cannot be termed an inaction or illegality in eye of law. Thus, the respondents while issuing the impugned notification and letters have not committed any illegality or irregularity, which could be questioned before this Court under its

Constitutional Jurisdiction. Moreso, the learned counsel

ATTESTED
EXAMINER
Peshawar High Court

for the petitioners has also miserably failed to point out any infringement of right of the petitioners by the respondents while issuing the impugned notification and letters in line with the provisions of law and direction of this Court in the ibid judgment. Being so, the petitioners could not make out a case for issuance of the desired writ.

85

10. In view thereof, the instant and the connected WP 2773-P/2022 and WP 4119-P/2022 are dismissed being meritless.

Announced:
26.01.2023

Ac

JUDGE

JUDGE

Wazir (Dg)

San'la Mr. Justice Abdul Shakoor, J
San'la Mr. Justice Syed Arshad Ali, J

CERTIFIED TO BE TRUE COPY

Examined:
Peshawar High Court Peshawar
Authorized Under Article 87 of
The Constitution of Pakistan

04 FEB-2023

68109
Presentation of Application 30/1/2023

Preparation of Copy 04/2/2023

Delivery of Copy 04/2/2023

To,

The Worthy Secretary Sports, Culture and Tourism,
Government of Khyber Pakhtunkhwa.

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Subject: DEPARTMENTAL APPEAL FOR PROMOTION TO JUNIOR CLERK (BPS-11) ON REGULAR BASIS AS
PER AMENDED SERVICE RULES DATED 25/04/2022.

RESPECTFULLY SHEWETH,

- i. That the appellant was appointed as DISPATCH RIDER and since then the appellant is performing his duty with great zeal and zest. Copy of the appointment order is at Annexure A.
- ii. That the services of the appellant are regulated under the service rules of the Directorate of Tourist Services which were notified vide notification dated 31.10.2017 and subsequently amended vide notification dated 24.04.2022. Copy is at Annexure B.
- iii. That as per the amended service rules of Directorate of Tourist Services, The appellant has completed the required length of service and is eligible to be promoted to the post of Junior Clerk (BPS-11).
- iv. That it is pertinent to mention here that an application was placed before the Director General of Directorate of Tourist Services by Appellant and other aggrieved officials of the said Directorate for promotion to respective posts to which the Director General had given remarks to put on hold said promotions until a DPC is convened for the promotion of employees from BPS-16 to BPS-17. Copy of application and remarks are at Annexure C.
- v. That DPC meeting for the officials of the Directorate in BPS-16 was held on 7-11-2022 under the chairmanship of Secretary Sports, Culture and Tourism Department in which objection was raised by DPC upon the amended service rules. The DPC has no legal forum to object the service rules as the amendment was approved by Standing Service Rules Committee (SSRC), vetted by Law Department and notified by Sports, Culture and Tourism Department on 25.04.2022, after fulfilling all the codal formalities. Copy of Gazetted Amended Service Rules is at Annexure D.
- vi. That the appellant and other employees had also filed writ petition 2772-P/2022 and 2773-P/2022 in the PHC for the promotion and convening of DPC which was dismissed as it observed the legal remedies available to the employees were not exhausted. However, the Hon'ble PHC has given relief to Mr. Riaz Ahmad (Directorate of Culture, KP) in writ petition No. 893-P/2022 dated 06.09.2022. (Copies Attached herewith at Annexure E-1 and Annexure E-2 Respectively). The jurisprudential principle of stare decisis, to let decisions stand, was cast aside.
- vii. That convening of DPC meeting for the promotion of employees from BPS-16 to BPS-17 in their respective cadres shall not have any effect on the employees already eligible for promotion.

ATTESTED
Bashir Khan
ADVOCATE
High Court Peshawar

viii. The Khyber Pakhtunkhwa Assembly promulgated the Khyber Pakhtunkhwa Tourism Act, 2019. Under section 08 of the Act the Directorate of Tourist Services will be ceased and merged into the newly established authority and surplus pool shall be created for the employees.

ix. That the appellant and other employees are fit for promotion and if sent to surplus pool without promotion, his years of service in the Directorate will be wasted and his right to promotion will be denied. He might not get a chance for promotion in the future as he will try for adjustment in other Departments and once adjusted he will be placed at the bottom of seniority list as per rules.

It is therefore most humbly prayed that on the acceptance of this instant appeal the appellant may kindly be promoted to the post of Junior Clerk (BPS-11) before the creation of surplus pool with letter and spirit as per service rules for promotion so that the appellant may not be deprived of his legal right of promotion, please!

Dated: 17/02/2023

APPELLANT

Name : Musatamil Shah
Post: Dispatch Rider(BPS-05)
DTS, 4th Floor, FC Plaza Peshawar
Cantt.

Signature:

Copy for information to:

- i. PS to Chief Secretary Khyber Pakhtunkhwa
- ii. PS to Director General Directorate of Tourist Services KP

ATTESTED
Bashir Khan Wazir B/C 09-2053
ADVOCATE
High Court Peshawar

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212

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Rajshree K...
AD...
09-2053

بعد الت سروس ٹریسٹ کے لیے
BC No 09, 2053
0333 9732415

2023ء پنجاب ہائی کورٹ
مستند شدہ بنام ضمیمہ

موزعہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام بیت رحمان و سٹریٹ ڈائریل ازین انڈسٹریز کیلئے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقررات ہ فیصلہ برحلاف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک دروپینا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو کسی وی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانشینوں نے مقدمہ کے سبب سے ہوگا
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھنا یا کہ سند ہے۔

ATTESTED
Bashir Khan Wazir B/C 09-2053
ADVOCATE
High Court Peshawar

الرقوم 14
ماہ جون 2023

بمقام اور سروس ٹریسٹ کے لئے منظور ہے۔

Accepted by
BC-22-5207

22-5347