

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

AMENDED SERVICE APPEAL NO.386/2023

Bilal Mohyuddin

VS


Govt. f KP etc

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APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT


(TAIMUR ALI KHAN)
(ADVOCATE HIGH COURT)

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

AMENDED SERVICE APPEAL NO.386/2023

Mr. Bilal Mohyuddin, Regional Director Prosecution, (BPS-20),
Peshawar Division, Peshawar.

(APPELLANT)

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa, Civil secretariat Peshawar.
2. The Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa, Civil secretariat, Peshawar.
3. The Secretary Establishment Department Khyber Pakhtunkhwa, Civil secretariat, Peshawar.
4. The Secretary Finance Department Khyber Pakhtunkhwa, Civil secretariat, Peshawar.
5. The Director General Prosecution, Directorate of Prosecution, Khyber Pakhtunkhwa, Peshawar.
6. The Provincial Selection Board through its Chairman Chief Minister Khyber Pakhtunkhwa.

(RESPONDENTS)

**AMENDED APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT,
1974 AGAINST THE IMPUGNED NOTIFICATION DATED
08.07.2020, WHEREBY THE APPELLANT WAS
PROMOTED TO THE POST OF REGIONAL DIRECTOR
PROSECUTION (BPS-20) WITH IMMEDIATE EFFECT
INSTEAD OF 01.07.2014, THE DATE ON WHICH THE
POSTS OF REGIONAL DIRECTOR PROSECUTION (BPS-
20) WERE CREATED AND AVAILABLE FOR
PROMOTION OR INSTEAD OF 11.01.2019, THE DATE ON
WHICH HIS COLLEAGUES AND JUNIORS WERE**

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PROMOTED TO THE POST OF REGIONAL DIRECTOR (BPS-20) AND THE APPELLANT WAS DEFERRED AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS AMENDED APPEAL, THE APPELLANT MAY KINDLY BE CONSIDERED FOR ANTE-DATION OF HIS PROMOTION TO THE POST OF REGIONAL DIRECTOR PROSECUTION (BPS-20) WITH EFFECT FROM 01.07.2014, THE DATE WHEN THE POSTS OF REGIONAL DIRECTOR PROSECUTION (BPS-20) WERE CREATED AND AVAILABLE FOR PROMOTION OR WITH EFFECT FROM 11.01.2019, THE DATE ON WHICH HIS COLLEAGUES AND JUNIORS WERE PROMOTED TO THE POST OF REGIONAL DIRECTOR PROSECUTION (BPS-20) AND THE APPELLANT WAS DEFERRED BY MODIFYING THE NOTIFICATION DATED 08.07.2020 TO THAT EXTENT WITH ALL BACK BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant joined the respondent department additional Public Prosecutor/additional Government Pleader in the year 1995. The appellant since his appointed is performing his duty with devotion and honesty, whatsoever assigned to him and no complaint has been filed regarding his performance. (Copy of appointment order is attached as Annexure-A)
2. That due to excellent performance and good service record the appellant was promoted to from the post of Additional Public Prosecutor (BPS-17) to the post Public Prosecutor (BPS-18) vide notification dated 28.04.2004 and was then promoted to the post of District/Senior Public Prosecutor/ Director (legal/Director (Admn.)) (BPS19) vide notification dated 12.02.2011. (Copies of notifications dated 28.04.2004 and 12.02.2011 are attached as Annexure-B&C)

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3. That 07 posts of Regional Director Prosecution (BPS-20) for Directorate of Prosecution, Khyber Pakhtunkhwa were created in the year 2014 with effect from 01.07.2014, which is evident from the letter dated 23.06.2014, however no rules were framed and notified by the department as to how the newly created posts of Regional Director Prosecution (BPS-20) can be filled on. **(Copy of letter dated 23.07.2014 is attached as Annexure-D)**
4. That the department issued the final seniority list of District Public Prosecutor (BPS-19) stood on 17.01.2017, whereby the appellant was at Sr. No.4 in that seniority list. **(Copy of seniority list is attached as Annexure-E)**
5. That as rules were not framed and notified by the department for filling newly created posts of Regional Director (BPS-20), the appellant along with other officers filed Writ Petition in the Honorable Peshawar High Court Peshawar which was disposed of on 12.10.2017 with certain directions. **(Copy of judgment dated 12.10.2017 is attached as Annexure-F)**
6. That on 17.01.2018, the rules were notified in which the post of Regional Director Prosecution (BPS-20) is to be filled by promotion on the basis of merit from amongst the Senior Public Prosecutors, District Public Prosecutor and Directors in (BPS-19) with at least seventeen (17) years of service in BPS-17 and above subject to successful completion of Senior Management Course. **(Copy of rules is attached as Annexure-G)**
7. That meeting of PSB was held on 26.12.2018, whereby the appellant was deferred from promotion to the post of Regional Director Prosecution (BPS-20) and his colleagues and juniors were promoted to the post of Regional Director Prosecution (BPS-20) vide notification dated 11.01.2019. **(Copies of PSB meeting Minutes and notification dated 11.01.2019 are attached as Annexure-H&I)**
8. That the appellant qualified SMC in December 2019 and the appellant was promoted to the post of Regional Director Prosecution (BPS-20) on 08.07.2020 with immediate effect instead of 01.07.2014 the date on which the posts of Regional Director Prosecution (BPS-20) were created and available for promotion or with effect from 11.01.2019 the date when his colleagues and juniors were promoted and he was deferred from promotion to the post of Regional Director Prosecution (BPS-20). **(Copies of SMC certificate and promotion notification dated 08.07.2020 are attached as Annexure-J&K)**

- 9
9. That the appellant filed departmental appeal on 13.10.2022 for antedation for his promotion to the post of Regional Director Prosecution (BPS-20), which was not responded within the statutory period of ninety days. (Copy of departmental appeal is attached as Annexure-L)
 10. That after the statutory period of ninety days, the appellant filed instant service appeal in this Honorable Service Tribunal, however, the appellant did not mention the PSB meeting minutes and promotion notification dated 11.01.2019 in his service appeal which is necessary for fair conclusion of the case, therefore he filed application to amend the instant appeal, which was allowed by this Honorable Tribunal on 05.07.2023. (Copies of application and order sheet dated 05.07.2023 are attached as Annexure-M&N)
 11. That the appellant now submitted this amended appeal in this Honorable Tribunal for redressal of his grievance on the following grounds amongst others.

GROUND:

- A) That not taking action on the departmental appeal of the appellant within the statutory period and not antedating the promotion of the appellant to the post of Regional Director Prosecution (BPS-20) from 08.07.2020 to 01.07.2014, the date on which the posts of Regional Director prosecution (BPS-20) were created and available for promotion or from 08.07.2020 to 11.01.2019, the date on which his colleagues and juniors were promoted to the post of Regional Director Prosecution (BPS-20) and the appellant was deferred by modifying the order dated 08.07.2020 to that extent are against the law, facts, norms of justice, material on record and violation of Superior courts judgments, therefore not tenable and liable to modified to antedated the promotion of the appellant w.e.from 01.07.2014, the date on which the posts of Regional Director prosecution (BPS-20) were created and available for promotion or w.e.from 11.01.2019, the date on which his colleagues and juniors were promoted to the post of Regional Director Prosecution (BPS-20) and the appellant was deferred.
- B) That 07 posts of Regional Director Prosecution (BPS-20) were created on 01.07.2014, however, no rules were framed and notified by the department as to how the newly created posts of Regional Director Prosecution (BPS-20) can be filled and when the rules were framed on 17.01.2018 for promotion to the post of Regional Director Prosecution (BPS-20), the appellant was promoted on one of the post of Regional Director Prosecution (BPS-20) on 07.08.2020 with immediate effect

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- instead of 01.07.2014, the date on which posts were created or instead of 11.01.2019, date on which his colleagues and juniors were promoted and the appellant was deferred and not ante dating his promotion to the post of Regional Director Prosecution (BPS-20) to 01.07.2014 or 11.07.2019 is violation of superior Court judgments on the subject.
- C) That PSB was held on 26.12.2018 for promotion to the post of Regional Director Prosecution (BPS-20), wherein the appellant was differed in that PSB and his colleagues and juniors were promoted to post of Regional Director Prosecution (BPS-20) vide notification 11.01.2019 and later on the appellant was also promoted to the post of Regional Director prosecution (BPS-20) vide notification 08.07.2020 with immediate effect instead of 11.01.2019, the date when he was deferred and his colleagues and juniors were promoted, which is violation of law, rules and promotion policy.
- D) That the appellant was deferred and not superseded and it was the legal right of the appellant to be promoted to the post of Regional Director Prosecution (BPS-20) from the date i.e 11.01.2019, when his colleagues and juniors were promoted and he was deferred from promotion.
- E) That the appellant was eligible for promotion the post of Regional Director (BPS-20) on 01.07.2014, but the rules were not framed and notified by the department in time and later on framed in the year 2018, so the appellant should not be punished for the fault of others to deprive from his legal right of promotion with effect from 01.07.2014 or with effect from 11.01.2019.
- F) That the Honorable supreme of Pakistan has also held in its various judgments that promotion should be made from the date when the post is available for the official in his quota and the official cannot deprived from his legal right merely because the concern department did not carry out the process in time.
- G) That not promoting the appellant to the post of Regional Director (BPS-20) from the date i.e 01.07.2014 or from the date 11.01.2019 will cause irreparable loss to the appellant in the shape of pension and other monetary benefits for no fault on his part.
- H) That the appellant has not been treated in accordance with law and rules and has been deprived from his legal right of promotion to the post of Regional Director Prosecution (BPS-20) from the date i.e 01.07.2014, the date when the posts were created and available or from the date i.e 11.01.2019, the date when his colleagues and juniors were promoted and the appellant was deferred from promotion.

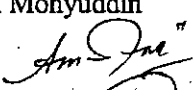
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1) That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

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


APPELLANT
Bilal Mohyuddin

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT


(TAIMUR ALI KHAN)
(ADVOCATE HIGH COURT)

⑦

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

AMENDED SERVICE APPEAL NO.386/2023

Bilal Mohyuddin

VS

Govt. f KP etc

AFFIDAVIT

I, Bilal Mohyuddin, Regional Director Prosecution, (BPS-20), Peshawar Division, Peshawar, (Appellant) do hereby affirm and declare that the contents of this amended service appeal are true and correct and nothing has been concealed from this Honorable Tribunal.


DEPONENT

GOVERNMENT OF N.W.F.P.
SERVICES AND GENERAL ADMIN. DEPARTMENT
(SERVICES WING)

Dated Peshawar, the 21st September, 1995

NOTIFICATION

No.SOS-IF(SEGAD)2(11)/95-APP :- The Governor NWFP., is pleased to order the appointment of the following candidates as Additional Public Prosecutors/Additional Government Pleaders with effect from the date of taking over charge :-

S.No.	Name of candidates with father's name.
1.	Mr Muhammad Idrees s/o.Muhammad Younas.
2.	Mr Muhammad Zubair Anwar s/o Ghulam Habib.
3.	Mr Bilal Mohyud Din s/o Ghulam Mohyud Din.
4.	Mr Fakhrul Islam s/o Muhammad Mukhtar.
5.	Mr Muhammad Sultan Mahmood s/o Sardar Muhammad Nawaz.
6.	Mr Abdul Jabbar s/o Gulzad Shah.
7.	S. Amjid Ali s/o S.Mir Karam
8.	Mr Sikandar Hayat s/o Zahoorul Haq.
9.	Mr Muhammad Ibrahim s/o Ghulam Rashid.
10.	Amir Subhan Khattak s/o Muhammad Hussain Khattak.
11.	Mr Muhammad Nawaz Khan s/o Arifullah Jan

2- Their appointment to the service is subject to the following terms and conditions :-

1. They will be allowed pay at the minimum of BPS-17 plus usual allowances as admissible under the rules. Those who are already in Government service, their pay shall be fixed in accordance with the rules.
2. They shall be on probation initially for a period of two years extendable upto 3 years.
3. Their services shall be liable to termination on one month's notice from either side. In case they wish to resign at any time, a month's notice shall be necessary or in lieu thereof one months' pay shall be forfeited

9 C

4. Their appointment is subject to verification their antecedents through Special Branch of Police and production of Medical fitness certificates from the Standing Medical Board.
5. Their services shall be liable to termination at any time without assigning any reason during the probation period/extended period of probation, if their work during this period is not found satisfactory. In such an event, they shall be given a months' notice.
6. Their appointment shall be regulated under the NWFP Civil Servants Act, 1973 and the rules/regulations made there-under.
7. No TA/DA will be allowed for joining the service.

3- If the appointment, on the above terms & conditions is acceptable to the candidates concerned, they should report to the Secretary to Government of NWFP., Law Department immediately but not later than 19-10-1995.

CHIEF SECRETARY,
GOVT. OF N.W.F.P.

Encl: No. SOS-II(S&AD)2(11)/95-APP Dated 21-9-1995

A copy is forwarded to :-

1. Secretary to Governor NWFP.
2. Secretary to Chief Minister NWFP.
3. Secretary to Govt. of NWFP., Law Department.
4. Accountant General NWFP., Peshawar.
5. SO(Secret)/SOS-I/S.O/Programmer/Librarian S&AD.
6. PS to Minister S&AD./PS to Minister Law.
7. PS to Chief Secretary
8. PS to Secretary S&AD.
9. All the candidates concerned.
10. Manager Govt. Printing Press Peshawar.
11. P.I. to AS(C)/DS(S)/DS(Adm) S&AD.
12. Office order file.

Bismillah Shah
(BISMILLAH SHAH)
SECTION OFFICER(SERVICES.II) 21/9/95

GOVERNMENT OF THE N.W.F.P.
LAW, PARLIAMENTARY AFFAIRS
AND HUMAN RIGHTS DEPARTMENT.

Dated Peshawar, the 28.4.2004.

NOTIFICATION

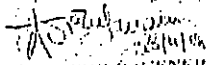
No. E&A(1.D)9-7/2000:- The Competent Authority, on the recommendations of Provincial Selection Board (PSB), is pleased to promote the following Additional Public Prosecutor/Additional Government Pleaders (BPS-17) to the posts of Public Prosecutor/ Government Pleaders (BPS-18) with immediate effect.

1. Mr. Dilat Muhyuddin.
2. Mr. Fakhr-ul-Islam.
3. Mr. Muhammad Sultan Mahmood.
4. Mr. Anjad Ali.
5. Mr. Saliandar Hayat.
6. Mr. Mohamud Ibrahim.
7. Mr. Amir Subhan Khattak.
8. Mr. Mohammad Nawaz Khan.
9. Mr. Mujarrah Khan.
10. Mr. Tariq Balsh.
11. Mr. Taj Noor Khan.

(AMIR GULAH KHAN)
SECRETARY TO GOVERNMENT,
NORTH-WEST FRONTIER PROVINCE,
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT.

ENDST. NO. E&A(1.D)9-7/2000 | 2048-2137 DATED: 28.4.2004

- Copy of the above is forwarded to:
1. The Secretary to Chief Minister, NWFP.
 2. All Administrative Secretaries in N.W.F.P.
 3. The Registrar, Peshawar High Court, Peshawar.
 4. All District and Session Judges NWFP.
 5. The Solicitor, N.W.F.P.
 6. The Advocate General, N.W.F.P.
 7. The P.S. to Chief Secretary, NWFP.
 8. The Accountant General, NWFP.
 9. All District Accounts Officers in NWFP.
 10. The Manager, Government Printing Press, NWFP.
 11. All Officers Concerned.


SECTION OFFICER (GENERAL)



Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department
No. SO (Prosecution) 111/1-11/2010
Dated: Peshawar (16/12/2011).

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NOTIFICATION

No. SO (Prosecution) 111/1-11/2010. The Competent Authority, in consultation with the Provincial Selection Board, is pleased to order the promotion of the following Public Prosecutors (DPS-8) of the Directorate of Prosecution, Khyber Pakhtunkhwa to the post of District Senior Public Prosecutor/Director (Legal)/ Director (Admin) (DPS-19) on regular basis with immediate effect:

S.#	Name of Officer
1	Mr. Sanaullah Khan
2	Syed Feroz Shah
3	Mr. Asmat Isa Khan
4	Muhammad Akram
5	Muhammad Ilyas Khan
6	Muhammad Zaman Khan
7	Muhammad Idris Khan
8	Muhammad Zubair Anwar
9	Mr. Bilal Mohyuddin
10	Mr. Fakhru Islam
11	Muhammad Sultan Mahmood
12	Syed Amjad Ali Shah
13	Mr. Sikandar Hoyal
14	Muhammad Ibrahim
15	Mr. Amir Subhan Khattak
16	Muhammad Nowaz
17	Mr. Mujrab Khan
18	Mr. Tariq Bakhsh
19	Mr. Toj Noor
20	Mr. Shahzada
21	Hafiz Muhammad Haroon
22	Mr. Nasrullah Jan
23	Muhammad Arif
24	Mr. Salim Muhammad
25	Mr. Abdul Wajid

Handwritten signature
DIRECTOR (ADMIN) PROSECUTION
Home & Tribal Affairs

The above Officers will be on probation for a period of one year in terms of Section-5 (2) of NWFP Civil Servants Act, 1973 read with Ruks-15 of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

NO. BO-III/FD/2-4/2013-2014

Dated Peshawar the 23rd June 2014

OC
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To

The Secretary to Government of Khyber Pakhtunkhwa,
Home and Tribal Affairs Department.

Subject: - CREATION OF POSTS OF PUBLIC PROSECUTORS AT PAR WITH
THE NUMBERS OF COURTS IN KHYBER PAKHTUNKHWA.

Dear Sir,

I am directed to refer to your letter No. SO (B)(PRS)/HD/1-1/
2011 dated 10-06-2014 on the subject noted above and to state that in
compliance to the approval accorded by the competent Authority, Finance
Department agrees to the creation of following 108 additional posts for
Directorate of Prosecution, Khyber Pakhtunkhwa with effect from
01-07-2014 subject to observance of all codal formalities and laid down
procedure:-

S.No.	Name of Posts with BPS.	No of Posts.
1	Regional Director (BPS-20).	07 ✓
2	Deputy Director Prosecutor (BPS-17).	12
3	Assistant Public Prosecutor (BPS-16).	89,
Total.		108

2. The expenditure involved is debitable to the function "03-Public
Order and Safety Affairs 036-Administration of Public Order 0361-
Administration 036101-Secretariat" NC 21011 (008) PR 4601-Directorate of
Prosecution and will be met out through Supplementary Grant during the next
financial year 2014-15.

3. Draft Sanction indicating therein financial implication involved
may be prepared and sent to this department for authentication.

Yours faithfully

(SHAH MUHAMMAD)
BUDGET OFFICER-III

Endst: No: and date even.

Copy forwarded to:

1. The Director General Prosecution Khyber Pakhtunkhwa, Peshawar.
2. Master File.

done may on our
not
07
07
BUDGET OFFICER-III

Dated Peshawar 07/02/2017

NOTIFICATION

13
FD/1

No. 50 (Prosecution) HD/1-27/2017 : In pursuance Section-8(1) of Khyber Pakhtunkhwa Civil Servants Act, 1973, read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the competent authority is pleased to notify/circulate Final Seniority List of District Public Prosecutor and Senior Public Prosecutor (BS-19) of Directorate of Prosecution as stood on 17-01-2017.

S.#	Name of officer with academic qualification.	Date of Birth & Domicile	Date of first entry into service with BPS	Regular appointment/Promotion to present post			Present posting
				Date	BPS	Method of recruitment	
1.	Muhammad Akram, (Rtd n 19) B.A, LLB	05/01/1958 Peshawar	13/04/1989 (BPS-17) as Add:PP	12-02-2011	BPS-19	By Promotion on regular basis	Peshawar
2.	Muhammad Idrees Khan, (Rtd n 20) M.A, LLB	10/03/1959 Swabi	21/09/1995 as Add: PP (BPS-17)	-do-	-do-	-do-	Buner
3.	Muhammad Zubair Anwar, (Rtd n 20) B.A, LLB, LL.M	02/04/1960 Kohat	04/10/1995 as Add: PP (BPS-17)	-do-	-do-	-do-	Hangu
4.	Mr. Bilal Mohyudin, B.Sc, LL.B	15/12/1963 Peshawar	04/10/1995 as Add: PP (BPS-17)	-do-	-do-	-do-	Director Admn:
5.	Mr. Fakhru'l Islam, (Rtd n 20) B.A, LL.B	15/06/1960 Abbottabad	04/10/1995 as Add: PP (BPS-17)	-do-	-do-	-do-	Mansehra
6.	Muhammad Sultan Mehmood, B.A, LL.B Not promoted.	06/01/1966 D.I.Khan	17/10/1995 as Add: PP (BPS-17)	-do-	-do-	-do-	Peshawar
7.	Mr. Amjid Ali Shah, (Rtd n 20) B.A, LL.B	16/06/1963 Swabi	04/10/1995 as Add: PP (BPS-17)	-do-	-do-	-do-	Abbottabad
8.	Mr. Sikandar Hayat (Rtd n 20) M.A, LL.B	10/09/1959 Charsadda	04/10/1995 as Add: PP (BPS-17)	-do-	-do-	-do-	Law Officer Advocate General office, Peshawar
9.	Muhammad Ibrahim, (Rtd n 20) B.A, LL.B	15/02/1963 Malakand.	04/10/ 1995 as Add: PP (BPS-17)	-do-	-do-	-do-	Dir Lower
10.	Mr. Amir Subhan Khattak, (Rtd n 19) B.A, LL.B	20/12/1959 Nowshera.	04/10/1995 as Add: PP (BPS-17)	-do-	-do-	-do-	Nowshera
11.	Mr. Mujarab Khan, (Rtd n 19) B.A, LL.B	22/03/1960 Shangla.	03/11/1998 as Add:PP (BPS-17)	-do-	-do-	-do-	Swat
12.	Mr. Tariq Bakhsh, B.A, LL.B	14/02/1966 Kohat.	25/11/1998 as Add:PP(BPS-17)	-do-	-do-	-do-	Peshawar

[Signature]

S.#	Name of officer with academic qualification.	Date of Birth & Domicile	Date of first entry into service with BPS.	Regular appointment/Promotion to present post			Present posting
				Date	BPS	Method of recruitment	
13.	Mr. Taj Noor, B.A, LLB	03/03/1959 Malakand.	28/11/1998 as Add:PP(BPS-17)	-do-	-do-	-do-	Chitral
14.	Mr. Shahzada, M.A, LLB	04/10/1964 Bajour Agency	28/11/1998 as Add:PP(BPS-17)	-do-	-do-	-do-	Shangla
15.	Mr. Hafiz Muhammad Haroon B.A,LLB	01/04/1965 Mansehra	28/11/1998 as Add:PP(BPS-17)	-do-	-do-	-do-	Haripur
16.	Mr. NusratUllah Jan, B.A, LLB	10/10/1965 Peshawar	25/11/1998 as Add:PP(BPS-17)	-do-	-do-	-do-	Charsadda
17.	Mr. Saleem Muhammad, B.A, LLB	04/04/1964 Malakand Agency	18/09/1991 as PSI BPS-14 in Police department	-do-	-do-	-do-	Director Legal (Prosecution)
18.	Mr. Abdul Wajid, B.A, LLB	10/10/1966 D.I.Khan	27/11/1998 as Add:PP(BPS-17)	-do-	-do-	-do-	Tank
19.	Mr. Imtiaz-Ud- Din Mansoor, B.A, LLB	12/10/1963 D.I.Khan	09/01/2001 as Add:PP (BPS-17)	30/04/2013	-do-	-do-	Bannu

**Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department Khyber Pakhtunkhwa**

Endst: of Even No. & Date:

Copy forwarded to:-

1. The Chief Secretary Khyber Pakhtunkhwa.
2. The Secretary to Govt: of Khyber Pakhtunkhwa, Establishment and Administration Department.
3. The Director General Prosecution, Khyber Pakhtunkhwa.
4. All the District Public Prosecutors in Khyber Pakhtunkhwa.
5. P.S to Secretary to Govt: of Khyber Pakhtunkhwa, Home & Tribal Affairs Department.


Section Officer (Prosecution)

F-15

Judgment
BEFORE PESHAWAR HIGH COURT,
PESHAWAR.



Judicial Department.

Writ Petition 402-P of 2017.

Muhammad Akram & others.....Petitioners.

Vs

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

Date of hearing.....12th October, 2017.....

Petitioner(s) by *Dr. Abdul Latif Aziz & Muhammad Arif Jansohn*

Respondent(s) by *Qazi Jamal Khan, Qazi Muhammad Qureshi, Qazi*
Qazi Syed Qasim Ali Shah

WAQAR AHMAD SETH. J. - Petitioners, Muhammad

Akram & others, aggrieved from the action and acts of respondents have filed the instant writ petition under Article-199 of the Constitution of Islamic Republic of Pakistan, 1973, by challenging the notification No. SO (E-1) E&AD/5-1/2016 dated 15.8.2016, whereby respondent No.5 has been appointed by transfer as Director General, Prosecution, BPS-20, which as per their assertion is in violation of Khyber Pakhtunkhwa, Prosecution Service Rules, 2005, amended in 2010, APT Rules, 1989, as well as direction of this Court rendered in WP No. 1934/2006 decided on 25.10.2007; with further prayers to direct

ATTESTED
EXAMINER
Peshawar High Court

the respondents to fill in the post of Director General, BPS-20 by giving preference to Officer of Prosecution; to follow the law and fill up the post of Regional Director BPS-20 through promotion and to notify the amendment so made in the Service Rules already finalized in respect of insertion of the post of Regional Director in the Khyber Pakhtunkhwa, Prosecution Service Rules, 2005, as amended in 2010.

3. Comments were called for from respondents which they furnished stated that petitioners have also filed writ petition titled as Syed Amjad Ali Shah Vs Govt for up-gradation from BPS-19 to 20, whereas in the instant case they sought promotion from BPS-19 to 20. Further stated that Director General Prosecutor, KP, has been transferred by PSB. According to the Rules of 2005, amended in 2010, the method of appointment of the DG Prosecution is (i) by transfer from amongst the officers of PSC/DMG/PMS or (ii) by promotion on the basis of selection on merit, from amongst the Senior Public Prosecutor / District Public Prosecutor / Director Administration / Director Legal with at least-17 years of experience and above. That after the establishment of Directorate of Prosecution, three Senior Public Prosecutors namely Mr. Attaullah, Syed Feroz Shah & Muhammad Arif

ATTESTED
EXAMINER
Peshawar High Court

Khattak, twice have been appointed as Director General Prosecution. None of the petitioners is in BPS-20 and nor they have qualified the Senior Management Course made mandatory by the Provincial Government for promotion to BPS-20. That DG Prosecution is a managerial post, like Prosecutor General, in other sister provinces and they don't have to appear in Courts, the director General Prosecution has to look into the management affairs of the Prosecution Service. None of the Prosecution Officer including the petitioners have undergone any management courses like Mid Career Management Course, Senior Management Courses etc. That DG Prosecution has already floated a proposal for the creation of the Prosecution General Office in KP in order to bring the service at par with sister provinces and that Finance Department has created seven posts of Regional Director BPS-20 w.e.f 1.7.2014 and there is no service rules for promotion of the officers to the post of Regional Director. That Provincial Government proposed amendment in the KP Prosecution Service Rules, 2010 by incorporating the provision of Senior Management Course (SMC) for the post of Regional Director BS-20, which will be notified shortly and promotion case of eligible officers of BPS-19 on the basis of fitness cum seniority to BPS-20 will be

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processed to the Provincial Selection Board, PSB, subject to qualifying the Senior Management Course.

4. We have heard learned counsel for the parties and perused the available record.

5. The prayer No. (i) has become in fructuous in view of the admitted facts communicated by the parties that respondent No.5, who was appointed by transfer as Director General, Prosecution in BPS-20, has been posted out.

6. As regarding prayer No. (ii) petitioners are asking for filling up the post of Director General, BPS-20 by giving preference to the officers of Prosecution Services in BPS-20 in accordance with the Khyber Pakhtunkhwa, Prosecution Services Rules, 2005, as amended in 2010. According to the Khyber Pakhtunkhwa, Services Rules, 2005, the post of DG Prosecution is to be filled in; i) by Promotion from amongst the Public Prosecutors or by transfer from amongst officers of PCS/DMG. The eligibility criteria for promotion to the post of DG Prosecution has been given in Rule-12 and according to which promotion shall be on the basis of seniority cum fitness from amongst the officers in BPS-18, subject to completion of at-least 12 years service in BPS-17 and 18.

ATTESTED
EXAMPLER
Peshawar High Court

7. We have before us minutes of the meeting of SSRC, regarding amendment in Khyber, Pakhtunkhwa, Prosecution Service Rules, held on 25.11.2014, wherein the issue has been discussed and held as under:-

"The proposal service rules for the above posts were discussed in detail. The committee observed that the post of Director General (BS-20) is Schedule post is transferred from amongst the officers of PCS/DMS but the Administrative Department has proposed by promotion. Therefore, the committee asked the department to take up case with Establishment department first for withdrawal from Scheduled post if so desire and then resubmit Services Rules for consideration of SSRC. The committee further observed that the nomenclatures of the posts at S. No. 4, 5, 6 & 8 of the proposed Service Rules are not in conformity with the names indicated in Budget Book. Therefore, the committee did not consider the same and asked the representatives of Home Department to take up the case with Finance Department for changing the nomenclature and then come up for SSRC meeting. The committee however considered the service rules in detail of the remaining posts and the revised service rules as per Appendix-A & B attached herewith as well as for ministerial staff in line with the standard of Establishment department were recommended for approval of the competent authority.

8. Vide notification dated 6.8.2017, amended rules have been circulated after the up gradation of the post, wherein, the post of Director General, Prosecutor BPS-20 is to be filled in; i) by transfer from amongst the officers of PCS/DMS/PMS or ii) by promotion on the basis of selection on merits, from

ATTESTED
EXAMINER
Peshawar High Court

amongst the Senior Public Prosecutors / District Public Prosecutors / Director (Admn) / Director (Legal) with at-least 17 years service in BPS-17 and above. Petitioners have not challenged the vires of the law, and as such the right and prerogative of the Government for the purpose of framing of law / rules and procedure for appointment and promotion is to prevail, therefore, the plea taken in this respect is not entertainable and no 'preference' can be considered.

9. As regarding prayer No. iii & iv we have before us, record showing that there are seven vacant post of Regional Directors in BPS-20 lying vacant, in this respect the respondents have admitted the creation of seven post of Regional Directors BPS-20 with effect from 1.7.2014, but has clarified that there are no service rules available for promotion of the officers to the post of Regional Director and as such the Provincial Government proposed amendment in the Khyber Pakhtunkhwa, Prosecution Service Rules, 2010, by incorporating the provision of Senior Management Course (SMC) for promotion to the post of Regional Director BPS-20. The amendment so proposed are lying for SSRC meeting with respondent No.2 and expectedly would be notified in near future and promotion cases of the eligible officers of BPS-19 on

ATTESTED
EXAMINER
Peshawar High Court

the basis of fitness cum seniority to BPS-20 would be processed to the Provincial Selection Board, subject to qualifying the Senior Management Course (SMC). Since, there are no rules at present and the same are in pipeline, therefore, respondents are directed to make possible the final amendments and notification in this respect, but within a period of three months, positively. CM No. 1774-P of 2017 for impleamdnet is allowed, applicants be arrayed as respondents in the panel of respondents with red ink; whereas COCs No. 228 & 401-P of 2017, have become in fructuous disposed of accordingly.

10. In view of the above, this writ petition is disposed of in above terms.

Announced.
12.10.2017.
Tariq Jan.

[Signature]
JUDGE
[Signature]
JUDGE

66897

Date of Presentation of Application 20-1-23
No of Pages 10-P
Copying fee 40
Total 40
Date of Preparation of Copy 20-1-23
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EXAMINER
High Court, Faisalabad
Authorized Under Article 27 of
the Genuine Shikhat Order - 2013
20 JAN 2023

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT.

Handwritten initials and numbers: 22, 8, 17.

NOTIFICATION

Peshawar, the 12th January, 2018

No. SO(Prosecution)/HD/1-5/Vol-1/2018:- In exercise of the powers conferred by sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Home and Tribal Affairs Department in consultation with the Establishment Department and the Finance Department, hereby direct that in this Department's Notification No. SO (Pros)HD/1-9/201/Vol-1, dated: 05-09-2013, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

- (a) against Serial No. 1, in column No. 5, for the existing entries, the following shall be substituted, namely:

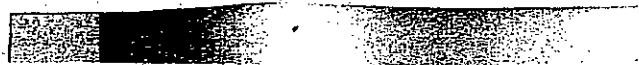
"By transfer from amongst the officers of PCS/PMS/PAS".

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Handwritten: 23-1-2018, DA, 23/1

Handwritten: 23/01

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23 20 18

(b) after Serial No. 1, as so amended, the following new entries shall be inserted in the respective column, namely:

"1A.	Regional Director (BPS-20).			By promotion, on the basis of merit-cum-fitness, from amongst the Senior Public Prosecutors, District Public Prosecutors and Directors in (BPS-19), with at least seventeen (17) years of service in BPS-17 and above subject to successful completion of Senior Management Course."
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(c) for Serial No. 2, the following shall be substituted, namely:

"2.	Senior Public Prosecutor/District Public Prosecutor (BPS-19).			By promotion, on the basis of seniority-cum-fitness, from amongst the Deputy Public Prosecutors (BPS-18) with at least twelve (12) years' service in BPS-17 and above."
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(d) for Serial No. 3, the following shall be substituted, namely:

"3.	Director (Legal)/ Director (Admn)/ Director (Monitoring) (BPS-19)			By transfer, from amongst the Senior Public Prosecutors and District Public Prosecutors (BPS-19)."
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(e) for Serial No. 4, the following shall be substituted, namely:

"4.	Deputy Public Prosecutor (BPS-18).			"By promotion, on the basis of seniority-cum-fitness; from amongst the Assistant Public Prosecutors (BPS-17) with at least five (05) years' service as such."; and
-----	------------------------------------	--	--	--

(f) for Serial No. 5, the following shall be substituted, namely:

"5.	Assistant Public Prosecutor (BPS-17)	(i) At least Second Class LLB/BS (Law) Honours/BS(Shariah Law) Honours (five years) or its equivalent qualification, from a recognized University; and (ii) License from Bar Council.	25 to 35 years.	By initial recruitment."
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SECRETARY TO
GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

Director Admin/Fin-

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and date above: -

- Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
 - Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.
 - Secretary to Government of Khyber Pakhtunkhwa, Law, Parliamentary Affairs & Human Rights Department, Peshawar.
 - Secretary, Khyber Pakhtunkhwa Public Service Commission, Fort Road, Peshawar.
 - Director General Prosecution Khyber Pakhtunkhwa, Peshawar.
 - Manager, Government Printing & Stationery Department, Shami Road, Peshawar for publication in the Government Gazette.
- is requested to supply 10 gazette copies to this Department.
- to Secretary, Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.


(Jehanzeb Khan)
Section Officer (Prosecution)

HA 26

ITEM NO (10)

HOME & TRIBAL AFFAIRS DEPARTMENT

(Meeting of PSB held on 26.12.2018)

SUBJECT: - PROMOTION OF SENIOR PUBLIC PROSECUTOR BS-19 TO THE POST OF REGIONAL DIRECTOR PROSECUTION BS-20.

Secretary Home & TAs apprised the Board that due to creation, seven (07) posts of Regional Director Prosecution BS-20 are lying vacant.

2. According to service rules the post is required to be filled as under:-

"By promotion on the basis of merit cum fitness, from amongst the Senior Public Prosecutors, District Public Prosecutors and Directors in BS-19 with atleast seventeen years of service in BS-17 and above subject to successful completion of Senior Management Course"

3. The service record of the officer included in the penal was discussed as follows:-

S#	NAME OF OFFICER	RECOMMENDATIONS OF THE BOARD
1	Mr. Muhammad Idrees Khan	His date of birth is 10.03.1959. He joined government service on 17.10.1995 in BS-17. He was promoted to BS-19 on 12.02.2011. He is exempted from training mandatory for promotion due to age factor. No enquiry is pending against him. His service record upto 2017 is generally good. The Board recommended the officer for promotion to the post of Regional Director Prosecution BS-20 on regular basis. He will be on probation till retirement.
✓	Mr Muhammad Zubair Anwar	His date of birth is 02.04.1960. He joined government service on 21.09.1995 in BS-17. He was promoted to BS-19 on 12.02.2011. He is exempted from training mandatory for promotion due to age factor. No enquiry is pending against him. His service record upto 2017 is generally good. The Board recommended the officer for promotion to the post of Regional Director Prosecution BS-20 on regular basis. He will be on probation for a period of one year.
3.	Mr. Bilal Mohy uddin	His date of birth is 15.12.1963. He joined government service on 04.10.1995 in BS-17. He was promoted to BS-19 on 12.02.2011. He has not undergone training mandatory for promotion.

		The Board recommended to defer his promotion.
4. ✓	Mr. Fakhrul Islam	<p>His date of birth is 15.06.1960. He joined government service on 21.09.1995 in BS-17. He was promoted to BS-19 on 12.02.2011. He is exempted from training mandatory for promotion due to age factor. No enquiry is pending against him. His service record upto 2017 is generally good.</p> <p>The Board recommended the officer for promotion to the post of Regional Director Prosecution BS-20 on regular basis. He will be on probation for a period of one year.</p>
5.	Mr. Muhammad Sultan Mehmood	<p>His date of birth is 06.01.1966. He joined government service on 17.10.1995 in BS-17. He was promoted to BS-19 on 12.02.2011. He has not undergone training mandatory for promotion and his PERs for the year 2012, 2014 & 2016 are also not available.</p> <p>The Board recommended to defer his promotion.</p>
6.	Mr. Amjad Ali Shah	<p>His date of birth is 16.06.1963. He joined government service on 04.10.1995 in BS-17. He was promoted to BS-19 on 12.02.2011. He has not undergone training mandatory for promotion.</p> <p>The Board recommended to defer his promotion.</p>
7. ✓	Mr. Sikandar Hayat	<p>His date of birth is 10.09.1959. He joined government service on 21.09.1995 in BS-17. He was promoted to BS-19 on 12.02.2011. He is exempted from training mandatory for promotion due to age factor. No enquiry is pending against him. His service record upto 2017 is generally good.</p> <p>The Board recommended the officer for promotion to the post of Regional Director Prosecution BS-20 on regular basis. He will be on probation till retirement.</p>
8.	Mr. Muhammad Ibrahim	<p>His date of birth is 15.02.1963. He joined government service on 04.10.1995 in BS-17. He was promoted to BS-19 on 12.02.2011. He has not undergone training mandatory for promotion.</p> <p>The Board recommended to defer his promotion.</p>
9.	Mr. Amir Subhan Khattak	<p>His date of birth is 20.12.1959. He joined government service on 04.10.1995 in BS-17. He was promoted to BS-19 on 12.02.2011. He is exempted from training mandatory for promotion due to age factor. His PERs for the year 2013, 2016 & 2017 are not available.</p>

Section Officer (PSB)
Govt. of Khyber Pakhtunkhwa
Establishment Department

KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

128

DATED PESHAWAR, THE JANUARY 11 2019

NOTIFICATION

NO.SO(E-I)E&AD/9-162/2019. The competent authority, on the recommendation of the Provincial Selection Board, is pleased to promote the following officers from the post of Prosecutor (BS-19) to the post of Regional Director Prosecution (BS-20) of the Legal Affairs Department, on regular basis, with immediate effect:-

S. #.	NAME OF OFFICER
1.	Muhammad Idrees Khan
2.	Muhammad Zubair Anwar
3.	Mr. Fakhru Islam
4.	Mr. Sikandar Hayat

2. The officers on promotion shall remain on probation for a period of one year or till retirement as the case may be, in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 extendable for another year with the specific orders of appointing authority within two month of the expiry of first year of probation period as specified in Rule 15(2) of rules ibid.

3. Their posting/transfer orders will be issued later on.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

Endst. No. and date even.

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department.
4. Accountant General, Khyber Pakhtunkhwa.
5. Director General Prosecution, Khyber Pakhtunkhwa.
6. Director General Information, Khyber Pakhtunkhwa.
7. BS to Chief Secretary, Khyber Pakhtunkhwa.
8. Joint Secretary Establishment.
9. Officers concerned.
10. Manager Govt. Printing Press Peshawar.

(ISHTIAQ AHMAD)

SECTION OFFICER (ESTT-1)

A LATER



10/1/19
DA
16/1
15/01
ADA II
17/01

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Marah Ahmad Bham

MARAH

Regional Director
Directorate of Prosecution
Home & Tas Department KPK
(Peshawar Division)

MARAH

has attended the
26th Senior Management Course
at the National Institute of Management Peshawar
from 2nd September 2019 to 20th December 2019 and qualified

MR. BILAL MOHYUDDIN

(Conditioned Head of National School of Public Safety)
This is to certify that



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HOME & TRIBAL AFFAIRS DEPARTMENT

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar, the July 08, 2020

NOTIFICATION

NO.SO(E-I)E&AD/9-162/2020. The Competent Authority, on the recommendations of the Provincial Selection Board, in its meeting held on 12.6.2020, is pleased to promote MASIM MURPHY, Senior Public Prosecutor (BS-19) to the post of Regional Director (BS-20) on regular basis with immediate effect.

2. The officer on promotion will remain on probation for a period of one year in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

3. Posting/transfer of the officer will be issued later on.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

ENDST. OF EVEN NO. & DATE

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. Principal Secretary to Governor, Khyber Pakhtunkhwa.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. Secretary to Government of Khyber Pakhtunkhwa, Home & T.As Department.
6. Accountant General, Khyber Pakhtunkhwa
7. Director General (Prosecution) Khyber Pakhtunkhwa
8. Director Information & P.R Department.
9. PSO to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Chief Secretary, Khyber Pakhtunkhwa.
11. PS to Secretary Establishment, E&A Department.
12. PS to Secretary Establishment/PS to SS(E)/SS (Reg)/PA. AS(HRD)/AS(E)/DS(E.)/SO(E.II)/SO(E.V) E&AD.
13. PS to Secretary (Admn.)/D.S(A)/SO(Secret)/Estate Officer/ACSO Cypher/Dy Director (IT) and Director Protocol Administration Department.
14. Officer concerned.
15. Controller, Govt. Printing Press, Peshawar.

4072
10/7/20

(ZIA UL-HAQ)
SECTION OFFICER (E)
PH: # 091-9210529



OFFICE OF THE REGIONAL DIRECTOR, PROSECUTION
PESHAWAR DIVISION
NO. 118 /RD-PESH
Date: 13/10/2022

13/10/2022

To

-The Worthy Chief Secretary,
Government of Khyber Pakhtunkhwa
Peshawar.

Through: PROPER CHANNEL.

Subject: CONSIDERATION FOR PROMOTION FROM BS-19 TO BS-20 ALONG WITH BACK BENEFITS WITH EFFECT FROM 01.07.2014. (AVAILABILITY OF POSTS)

Respected Sir,

The undersigned has been serving as a Regional Director Prosecution of Peshawar Division Peshawar in BS-20. The undersigned was appointed as Additional Government Pleader cum Assistant Public Prosecutor in October 1995 in BS-17 (Notification is annexed as "A"). Throughout the undersigned career, from BS-17 to BS-20 all the promotion to the higher posts were made through proper channel and on regular basis. Since appointment to till date no single up-gradation is given to the undersigned. The detail of which is tender here for your kind perusal. The undersigned was promoted from BS-17 to BS-18 vide notification No. E & A (LD) 9-7/2000 dated 28.04.2004. The undersigned was further promoted from BS-18 to BS-19 vide notification No. SO (Prosecution) /HD/1-10/2010 dated 12.12.2011 on regular basis. The undersigned was promoted from BS-19 to BS-20 Vide notification No. SO (E-1) E & AD/9-162/2020 on dated 08.07.2020. (Copies are annexed as "B, C & D").

Worth mentioning here that on 23.06.2014 the Finance Department had created 7 posts of Regional Director Prosecution BS-20 along with budget allocation (Annex "E") but the government was miserably failed to formulate the service rules for that. Due to the lethargic attitude of the government the undersigned was deprived from promotion to BS-19 to BS-20/Regional Director Post & its back benefit. The undersigned feeling aggrieved therefore, filed a writ Petition No. 402-P/2017 which was finally heard on 12.10.2017 & the August Court had observed that till date no service rules for the post of Regional Director was available in black & white but the same were under-consideration. Therefore, the government was directed to finalized the amendments & notification within 3 months positively. (Copy of Judgment is annexed as "F"). The Rules were framed & published in official gazette on 18th January 2018. (Copy annexed as "G")

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After formation of Rules the undersigned was promoted from BS-19 to BS-20 on 08.07.2020 but not with effect from 01.07.2014 irrespective of this fact that the undersigned was the most senior officer amongst all the Prosecutors & his promotion was due from 01.07.2014. Apart from seniority the competent authority ignored the undersigned outstanding service record too. The detail of which is tender here for your kind perusal. By the grace of Allah almighty the undersigned have very good record of service. In the history of Prosecution, the undersigned is the one & only among all the Prosecutors who remained as a Director administration of Prosecution for about seven and half years. Furthermore, the undersigned had performed the additional charge of District Public Prosecutor of Khyber and Director Admin of Prosecutor Department along with the charge of Regional Director Prosecution of Peshawar Division Peshawar in the time of crisis, which are quite enough to proof the dedication, commitment and passion of undersigned towards his official duties and the Prosecution Department. (Copy of CV is annexed as "H") Worth mentioning here that the in the history of Prosecution the undersigned is the first one who is SMC graduate. (Copy of SMC certificate is annexed as "I") The undersigned was fit & eligible for promotion from Bs-19 to BS-20 from all aspects since the creation of Regional Director Post BS-20 i-e 01.07.2014 but the competent authority had ignored this fact. So, the undersigned cannot be deprived from the consideration of promotion from BS-19 to BS-20 along with its back benefits from 01.07.2014 to till date.

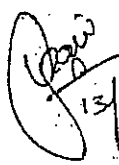
It has also been held in many judgments of the superior courts that promotion quota should always be filled from the date of availability of post.

Therefore, it is humbly requested that the undersigned promotion from BS-19 to BS-20 as Regional Director Prosecution along with its back benefits be declared from the date when the post of Regional Director was created i-e 01.07.2014. with all back benefits.

An early action in this regard shall be highly appreciated.

Regional Director
Yours Sincerely
Director of Prosecution
Home & Talent Development KPK
(Bilal Mohyuddin)

Regional Director Prosecution,
Peshawar Division, Peshawar.


13/6/20

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO.386/2023

Mr. Bilal Mohyuddin VS Govt. of KP

**APPLICATION FOR SEEKING PERMISSION TO ALLOW
THE APPELLANT TO AMEND THE INSTANT APPEAL TO
MENTION THE PSB MEETING MINUTES AND
NOTIFICATION DATED 11.01.2019 IN THE INSTANT
APPEAL.**

RESPECTFULLY SHEWETH:

1. The appellant has filed the instant appeal in this Honorable Tribunal to antedate his promotion of Regional Director Prosecution (BPS-20), which is in preliminary hearing stage.
2. That the PSB was held for promotion to the post of Regional Director Prosecution (BS-20), however the appellant was deferred in that PSB and promotion was done to the post of Regional Director Prosecution (BS-20), on 11.01.2019 on that PSB. (Copies of PSB meeting minutes and notification dated 11.01.2019 is annexed-A&B)
3. That the appellant was later on promoted to the post of Regional Director Prosecution (BS-20) on 08.07.2020 with immediate effect instead of due date due to which he filed the instant appeal to antedate his promotion.
4. That the appellant did not mention the PSB meeting minutes in which he was deferred and promotion order notification 11.01.2019 in the instant appeal which is necessary for fair conclusion of the case of the appellant.

It is therefore, most humbly prayed that on acceptance of this application, the appellant may kindly be allowed to amend the instant appeal to mention the PSB meeting minutes and notification dated 11.01.2019 in the instant appeal.

APPELLANT
THROUGH:
TAIMUR ALI KHAN
ADVOCATE HIGH COURT

S.A No. 386/2023

Bilal Mahmood vs Govt

21.06.2023


Appellant alongwith his counsel present.

Learned counsel for the appellant seeks further time

for preparation. Adjourned. To come up for preliminary hearing on 05.07.2023 before the S.B. Parcha Peshi given to the appellant as well as his counsel.

SCANNED
KPST
Peshawar


Naeem Amin


(Salah-Ud-Din)
Member (J)

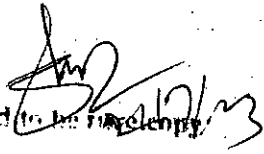
5th July, 2023

1. Learned counsel for the appellant present.

2. Perusal of appeal reveals that appellant prayed for ante-dating his promotion from 01.07.2014 to 08.07.2020 with contention that since creation of post of Regional Director (BPS-20) and its availability for promotion. Appellant through this amendment application want to mention the PSB meeting minutes and notification dated 11.01.2019 vide which some of his colleagues were promoted to the post of Regional Director and he was ignored. From sought amendment neither nature nor form of the appeal in hand will be change beside the fact that it is still in initial/preliminary hearing stage. It will be in the interest of justice that let an opportunity be provided to the appellant to add all the relief and claims in his appeal for deciding the matter on merit once for all. Therefore, application is accepted. To come up for amended appeal as well as preliminary hearing on 26.07.2023 before S.B. P.P given to learned counsel for the appellant.


(Rashida Bano)
Member(J)

*Kaleem Ullah


Certified to be true copy

CHIEF CLERK
Khyber Pakhtunkhwa
Service Tribunal
Peshawar