### FORM OF ORDER SHEET

Court of

<b>)</b>	Apr	peal No. 1569/2023
S.No.	Date of order	Order or other proceedings with signature of judge
1	2	3
1-	03/08/2023	The appeal of Mr. Rehman Shah presented today by
١	, 	Mr. Kamran Khan Advocate. It is fixed for preliminary
		hearing before Single Bench at Peshawar on 07-08-2023

By the order of Chairman

REGISTRAR

### BEFORE THE KHYBER PAKHTUNKWHA SERVICE APPEAL NO.\_

Mr. Rehman Shah, Programme Officer (BPS-16), Directorate of Culture, KP/Presently Working as PA to AS. APPELLANT

- The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- The Secretary Culture, Tourism, Archaeology and Museum Department, Peshawar.
- The Secretary Finance Department, Peshawar.
- Director, Culture Department, Peshawar.

..... RESPONDENTS

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10	- I N		17

Dated: 02.08.2023

Appellant Rehman Shah

Through:

Naveed Jan Advocates High Court, Peshawar

### W

## BEFORE THE KHYBER PAKHTUNKWHA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 1569 /2023.

Mr. Rehman Shah, Programme Officer (BPS-16), Directorate of Culture, KP/Presently Working as PA to AS.

...APPELLANT

#### **VERSUS**

- 1- The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Culture, Tourism, Archaeology and Museum Department, Peshawar.
- 3- The Secretary Finance Department, Peshawar.
- 4- Director, Culture Department, Peshawar.

...... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT PROMOTING THE APPELLANT TO THE POST OF ADMIN OFFICER (BPS-17) LAYING VACANT SINCE 02.09.2023 AND AGAINST THE INACTION OF THE RESPONDENT BY NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF THE NINETY DAYS.

### PRAYER:

That on acceptance of this appeal the respondent may kindly be directed to consider the appellant for promotion to the post of Admin Officer (BPS-17) with all back benefits.

Any other remedy which is deems fit by this Hon'able Tribunal may also be awarded in favor of the appellant.

### R/SHEWETH:

### **ON FACTS:**

- 2- That the appellant was promoted to the post of Senior Clerk (BPS-07) from the post of Junior Clerk (BPS-05) on 22.01.2004 and after lapse of time the appellant was promoted accordingly on dated 20.01.2014 to the post of Assistant (BPS=14) from the post of Senior Clerk. (Copy of Promotion, Notification are attached as Annexure-B&C).
- 3- That the appellant was promoted to the post of Programme Officer (BPS-16) from the post of Assistant (BPS-16), on 06.02.2019. (Copy of the Notification of Promotion is attached as annexure ......D).
- 4- That on 19.12.2022, the respondents department issued a Notification wherein Mr. Riaz Ahmad promoted from the post of Admin Officer (BPS-17) to the post of Deputy Director (BS-18). (Copy of the Notification dated 19.12.2022 is attached as annexure ......E).
- 5- That it is pertinent to mention here that the appellant is eligible and entitled to promoted to the post of Admin Officer as per rules on vogue.
- 6- That appellant feeling aggrieved the inaction of the respondents by

- - 7- That the appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

### **GROUNDS:**

- A-That the inactions of the respondents by not promoting the appellant from the post of Programme Officer (BPS-16) to the post of Admistrative Officer (BPS-17) are against the law, facts, norms of natural justice and materials on the record hence not tenable in the eyes of law, and therefore the appellant is liable to be Promoted.
- B-That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan-1973.
- C-That the respondents acted in arbitrary and malafide manner while not promoting the appellant on the vacant post (Admin Officer BPS-17).
- D-That it is pertinent to mention here that as per the Rules, 2009 of the respondent department, the appellant is entitled for promotion to the said post (Admin Officer BPS-17), therefore, the inactions of the respondents by not promoting the appellant on the said post (Admin Officer BPS-17) is against the vested rights and norms of natural justice. (Copy of rules are attached as Annexure-G).

(4)

E- That the appellant has served the Department for a long period with unblemished service record and having seniority cum fitness,

therefore, the appellant has the due right to be promoted to (BS-17).

F- That the appellant was not promoted to the post of (Admin Officer

BPS-17) is violated of the Section 9 of the Civil Servant Act, 1973

read with Rule 7 of the Khyber Pakhtunkhwa Civil Servant

Appointment, Promotion & Transfer Rules, 1989.

G-That according to Article 38(e) of the Constitution state is bound to

reduced disparity in the income and earning of individual including

persons in the civil service of the Federation.

H-That appellant seeks permission to advance other 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.

Dated: 03.08.2023

**APPELLANT** 

Rehman shah

Through:

Kamran Khan Advocate High Court,

Peshawar

### REFORE THE KHYBER PAKHTUNKWHA SERVICE TRIBUNAL, PESHAWAR

	APPEAL NO	/2023.	
	an Shah, Programme Offic ntly Working as PA to AS.		orate of Culture,
KI /I ICSCI	itry working as 171 to 115.		.APPELLANT
	VERSU	J <b>S</b>	
- The Ch	ief Secretary, Khyber Pakl Secretary Culture, Tour	ntunkhwa, Peshawa ism, Archaeology	r. and Museum
Depart	ment, Peshawar. cretary Finance Departme		•
	or, Culture Department, Pe		
		RESPON	IDENTS

### **AFFIDAVIT**

I, Mr. Rehman Shah, Programme Officer (BPS-16), Directorate of Culture, KP/Presently Working as PA to AS do hereby solemnly affirm and declare on oath that the content of the above appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret and concealed from this Hon'ble Tribunal.

DEPONENT

Rehman Shal

Identified by

Kamran Khan'

Advocates High Court Peshawar

# BEFORE THE KHYBER PAKHTUNKWHA SERVICE TRIBUNAL, PESHAWAR

N K	Ar. Rehman Shah, Programme Officer (BPS-16), Directo P/Presently Working as PA to AS.		
	••••••	<b>\PPE</b>	LLANT
	VERSUS		† .
1-	The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.		•
2-	The Secretary Culture, Tourism, Archaeology	and	Museum
2-	Department, Peshawar.	· .	
3-	The Secretary Finance Department, Peshawar.	•	
<i>3-</i>	Director, Culture Department, Peshawar.		• .
4-	Director, Culture Department, 1 control		
			DENTS

### Appellant

Rehman Shah, Programme Officer (BPS-16), Directorate of Culture, KP/Presently Working as PA to AS.

### Respondents

- 1- The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- The Secretary Culture, Tourism, Archaeology and Museum Department, Peshawar.
- 3- The Secretary Finance Department, Peshawar.
- 4- Director, Culture Department, Peshawar.

Dated: 31.07.2023

ADDRESSES OF THE PARTIES

GOVERNMENT OF NUFP INFORMATION SPORTS CULTURE TOURISM ARCHIVES MUSEUMS & PUBLIC RELATIONS DEPARTMENT

Dated Peshawar, the 18 July 1993

#### ORDER

No. SC(Culture)1-2/86.- The Secretary Culture and Vice Chairman, Sarhad Arts Council, is pleased to appoint Mr Rehmat Shah s/o Dost Mohammad, Village Khunderzai, P.O. Pabbi, as Junior Clerk (BPS-5) in the Sarhad Arts Council against the vacant post with immediate effect.

> SECULTARY TO GOVT OF NWFP INFORMATION SPORTS CULTURE TOURISM ARCHIVES MUSEUMS & PUBLIC RELATIONS DEPARTMENT

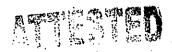
Endst. No. SO(Culture)1-2/86

Dated 18 July 1993

Copy is forwarded to:

- 1: The Administrative Officer, Sarhad Arts Council, Peshawar
- 2. Mr Rohman Shah s/o Dost Mohammad, Village Khunderzai, P O pabbi, Teh and District Non ahora.
  - 3. Private Secretary to Secretary Information, NWFP.
  - 4. The Accountant, Sarhad Arts Council, NWFP, Peshawar

(Notiamuati Saction Officer-II



GOVERNMENT OF NWFP SPORTS CULTURE TOURISM ARCHAEOLOGY & MUSEUMS DEPARTMENT

Dated Peshawar, the 22nd Jan: 2004

### OFFICE ORDER

Nog SOI(Culture) 1-1/2003/SAC: The competent authority is pleased to allow re-fixation of pay of Mr. Rehman Shah, Senior Clerk (BPS-7) under Rule-10(3) of the NVFP Civil Servants Pay Provision Rules 1978, after granting the annual increment in his faxeax former pay in lower scale (BPS-5) due on the 1st December, 2003 on his own option.

> SECRETARY TO GONWEP SPORTS CULTURE TOURISM ARCHAEOLOGY & MUSEUMS DEPARTMENT.

Dated Pesh: the 22-01-2004. SOI(Culture) 1-1/03/SAC,

Copy forwarded to: -

The PS to Secretary Culture, NWFP, Peshawar

The PA to Deputy Secretary Culture Department

The Administrative Officer, Sarhad Council of the Arts, NWFP, Peshawar.

The Accountant, Sarhad Council of the Arts,

NUFP, Peshawar.

Mr. Rehman Shah; Senier Clerk, Sarhad Council the Arts, NWFP, Peshawar

TION OFFICER-I



## DIRECTORATE OF CILIURE, REVBER PARETUNKEWA.

Dir (C) 1-13/Vol-II Appointment 2011 In pursuance of the recommendations of Departmental Promotion Committee me ting held on 15th Order No: January 2014, the competent authority has been pleased to pro note Mr. Rehman Shah, Senior Clerk (BPS-09) to the post of Assistant (BPS-14) on regular busis

The official will remain on probation for a period of one year in the with immediate effect. light of Section -6 of the Khyben Pakhuinkwaa Civil Serva 1973 and Rules-15 of the Khyber Pakhtunkwha Civil Servants (Appointment Fromotion & Transfer) Rules 1989.

(Meh nood Khan) Direc or Culture 6年至11年前,中国11日 Khyber Pakhtunkwha converse thorte Hilliam

### Endst: of Even No & Date:-

Dated Peshawar, the 20th January, 2014. 性理學相談學學

### Copy forwarded to:

- Accountant General, Khyber Pakhtunkwha. PS to Secretary Information, IPRs & Culture De sartment, Khytic ii)
- Accountant, Directorate of Culture, Khyber Pakhtunk ha, Peshawar Pakhtunkwha, Peshawar. ·iii)

Line The solve his Carolles was the

Officer Concerned: /iv)

Direc or Culture Khyber Pakhtunkw

### GOVERNMENT OF KIYBER PAKHTUNNEN SPORTS, CULTURE, TOURISM, ARCHAEOLUGY, museums a youthaffairs department.

Dated Peshawar, the O6th February . 2012.

On the (commendation of the Departmental mention Committee (DPC), meeting held on 01-02-2019 the Competers Castegrant is stepsed to promote Mr. Todinian South Assistant (RPS-16) against the stable book of Programmee Officer(BPS-15) on regular basis with immediate

The official will be on probation for a period of one year extendely another year in light of rules-12 Khyber Polithemichina Civil Servint (A on Surgendad in 1997.

> SECRETERY TO GOVE OF PHYSICAL PAKETURISHWY. SPORTS GULTUPE, TOURISM, ARCHAEOLOGY, MUSEUMS & YOUTH AFFAIRS DEPARTMENT.

reministr<u> B. da</u>le 1540.

a copy is forwarded to: -

The accountains General, Khyber Palchaushwa, Peshawar.

The Director, Culture, Khyber Pachtenkhwa.

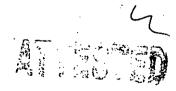
The Section Officer (Reg-I), Government of Ehyber Pakhtunkhwo,

Establishment Department. the Ceding Officer (SP-II), Government of Knyber Pakhlunkh-

Hubble Depositions

P.S to Secretary to Government of Rayber Pakhtunkhwa, Spct -Culture, Treurism, Archaeology, Museums & Youth Affairs Departmen the Office pacement.

MASSER SHAIP Sortion Officer (Arch: & Cultu







#### GOVERNMENT OF KHYBER PAKHTUNKHWA, CULTURE, TOURISM, ARCHAEOLOGY & MUSEUMS DEPARTMENT

13-A Khyber Road, Peshawar

091-9211)69 091-9212535 Aocamu940-8gmail.com Doted Peshawar, the 19th December, 2022

NOTIFICATION

Consequent upon the No.50(C)1-1/2013/PSB/Vol-II recommendations of the Provincial Selection Board (PSB), the Competent Authority s pleased to promote Mr. Riaz Ahmad Administrative Officer (BPS-17) against the post of Deputy Director (BS-18) in the Directorate of Culture, the Pakhtunkhwa on regular basis with immediate effect.

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

> SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA. CULTURE, TOURISM, ARCHAEOLOGY & MUSEUMS DEPARTMENT.

#### Ends: of even number & date

Copy is forwarded to:-

The Advocate General Peshawar High Court Peshawar.

The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.

The Accountant General, Khyber Pakhtunkhwa, Peshawar. 3.

The Principal Staff Officer to Chief Secretary, Khyber Pakhtunkhwa.

The PS to Secretary to Govt. of Khyber Pakhtunkhwa Financa Department.

The PS to Secretary to Govt of Khyber Pakhtunkhwa

Department.

The Director General Culture & Tourism Khyber Pakhtunkhwa.

8. The Director Culture, Khyber Pakhtunkhwa, Peshawar.

The Section Officer (PSB), Government of Khyber Pakhtunkhwa, Establishment Department.

10. The Section Officer (Lit) Government of Knyber Pakhtunkhwa, Culture, Tourism, Archaeology & Museums Department.

s to Secretary to Government of Khyber Pakhtunkhwa, Culture,

Tourism, Archaeology & Museums Department.

PITEM CORCEMEN.

The Secretary to Govt. of Khyber Pakhtunkhwa, Culture & Tourism Department, Khyber Pakhtunkhwa, Peshawar.

Subject:

APPEAL FOR PROMOTION FROM THE POST OF PROGRAMME OFFICER (BS-16) TO THE POST OF ADMINISTRATIVE OFFICER (BS-17) ON ACTING CHARGE BASIS

Dear Sir,

With reverence, it is stated that the undersigned is working as Programme Officer (BS-16) in Directorate of Culture, Khyber Pakhtunkhwa (presently working as PA to Additional Secretary, Cuiture & Tourism Department). Recently, Mr. Riaz Ahmad, Administrative Officer (BS-17) promoted to the post of Deputy Director (BS-18) after the recommendations of PSB vide Notification No. SO(C)/1-1/2013/PSB/Vol-II/5440-51 dated 19th December, 2022 (copy attached).

- It is worth mentioning here that as per Service Rules and seniority list, the undersigned is eligible for promotion to the post of Administrative Officer (BS-17) on acting charge basis as the undersigned has completed tenure of approximately 04 years on the said post.
- Keeping in view of the above, it is requested that the undersigned may kindly be promoted to the post of Administrative Officer (BS-17) in Directorate of Culture, Khyber Pakhtunkhwa on acting charge basis at an early date, please.

(REHMAN SHAH) Programme Officer (BS-16) Directorate of Culture, KP / presently

working as PA to AS



# DIRECTORATE OF CULTURES KHYBER PAKHTUNISHY

No. Dir(C)1-2/2015/Service Rules

Dated: Peshaw. Andad May ,2023/562

To

The Section Officer (Arch & Culture), Culture, Tourism, Archaeology, & Museums Department.

🖫 Subject, -

APPEAL FOR ROMOTION FROM THE POST OF PROGRAMME OF TICER (BPS-16)
TO THE POST OF ADMINISTRATIVE OFFICER (BPS-17) ON ACTING CHARGE
BASIS

Reference to the Culture, Tourism, Archaeology & Museums Department letter No.SO(Cul)1-9/2018/1787-90 dated 26th April 2023 on the subject roted above and to state that the post of Administrative Officer is to be occupied by promotion en seriously cum-fitness from amongst the holders of the post of Programme officers, Account Officers and Senior Scale Stenographers (Annex-I).

As per the already framed service rules no joint seniority list of the Programe officer, Accounts Officer & Senior Scale stenographer has been is used for the year 2021, 2022 & 2023 hecause the post of Accounts Officer was upgraded from BPS-16 to BPS-17 on 19-01-2021 vide Notification No. SO(Cu!)1-1/2019 dated 19-01-2021 (Amex-11 or with remaining posts of Programe Officer and Senior Scale Stenographer remained in BPS-16 Due to the difference in Basic Pay Scales, issuance of joint seniority list is not possible.

Further to state that Director Cuture being the head of Macked formation is authorized to issue the sentority list up to the extent of BPS-16 hutnot BPS-12. To resolve the issue this office requested the administrative department thrice vide letters bearing of even No. this office requested the administrative department thrice vide letters bearing of even No. Dir (C)1-2/2015/Service rules dated 10-02-2021, 16-09-2021 & 03-03-2012 for amendment in Service rules to split the seniority of the post of Accounts officer from the posts of Program Officer service rules to split the seniority of the advice made by Finance Department vide letter & Senior Scale Stenographer in light of the advice made by Finance Department vide letter No.SO(FR)FD/7-34/2020 dated 19-01-2021 (Annex-III). Marking Paper for the proposed service rules amendment has been submitted to the administrative department accordingly.

It is hereby requested that the proposed amendment in service rules to the extent of Accounts Officer (BPS-17) may be placed before the SSRC enabling this effice to issue the seniority lists for the aforementioned officers and to process the case of appointment on acting seniority lists for the aforementioned officer (BPS-17), please charge basis to the post of Administrative Officer (BPS-17), please

LKHAN I

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•	6.	Frogrammer Officer			By promotion on the basis of seniority-cum-litness, from amongst the holders of the post
				•	Provided that if no suitable officer is available for exemption than the same
	7.	Accounts Officer	2nd Class B.Com, BBA Degree from a recognized University.	21-33 ya era.	officer from Provincial Government.  By promotion on the basis of seniority-cum-fitness, from amongst the holders of the post of Accountants with at least five years service as such.
3		(Now to a strengt state that the third party or to the surper or a party of the surper or the surper		and the second s	Provided that if no suitable officer is available for prospection, then by transfer of an officer from Provincial Government.
	₹.	Senier Scele Szenographez	(a) S.A./B.Sc. or equivalent qualification from a recognized University.	18-30 years.	By promotion on the basis of seniority-cum-fitness, from amongst the holders of the post of funior Scale Stenographers with at least five years service as such
			(b) Spaed of AO and 40 words per minute in Shorthand and Typing respectively; and (c) Knowledge of Computer in using MS Word		Provided that it no suitable candidate is available for promotion, then by initial recruitment.
	يول مداحه د	The same of the sa	वर्त्व (शुर्व हर्वेदेश).		
		शिव्यो≜) त्वर -	2nd Class Bachalor's Ceares ham a recognized University.	12-30 yemê.	(a) Fifty per cont by promotion, on the basis of sentority-cum-fitness, from amongst the holders of the post of Senior Clerks having five years service as such:
-	**				. Provided that if no suitable official is available for promotion, then by transfer of soutable official from the Government Department, and
	-	and the same of th		S. Kitakim (migray) - magain meningan	(b) Flay per cent by initial recruitment.
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g.Mo.	10 1/3	recruitment .	4 .	5
1	2	<u> </u>		(a) By transfer of an officer of the Provincial Government; or
· · · ·	Director			(b) By promotion, on the basis of seniority-cum-fitness, from amongst the holder of the post of Deputy Directors having seven years service as such or 12 years service in BPS-17 and
				By promotion, on the basis of seniority-cum-Stress, from amongst the holders of the post of
2.	Deputy Director			Assistant Directors and Monthistrative Officers, that Mg at the
				Provided that if no suitable officer is available for promotion, then by transfer of a sofficer from Provincial Government.
	Assistant Director	2nd Class Master's Degree in Social Sciances	21-32 years	By initial recruitment,
1	7.5.((3.5)): 91133.3	from a recognized University and Diploma or Certificate in Fine Arts or Orematics or Falliting.  From a recognized institution.	1	
	Coministrative Officer	A Jan 2 Soughite a manual		By promotion, on the basis of seniority-cum-fitness, from smanget the holders of the post of Programme Officers and Accounts Officers, baving at least five years service as such:
	Solution de la constante de la			Provided that if no suitable officer is available for promotion, then by transfer of a principle from Provincial Government.
-	<u> </u>		21-32 years.	By initial recruitment.
. E.	Opropekst Programme:	Cod Class Mastet's Degree in Computer Science or equivalent qualification from a redegnized		
1		indversity.	and the second second	

1406-11



government of khyber pakhtunkhwa SPORTS, CULTURE, TOURISM, ARCHAEOLOGY, MUSEUMS& YOUTH AFFAIRS DEPARTMENT. 13-A Khyber Road, Peshawar. Phone # 091-9211169

Dated Peshawar, the 19th January, 2021

riotification

In pursuance of approval of the Competent Authority No. 50 (Cul) 1/2019: / Finance Department (Chief Secretary Khyber Pakhtunkhwa) and Ho.SO(FR)FD/7-34/2020 dated 19-01-2021, sanction of Government of Khyber Pakhtunkhwa Sports, Culture, Tourism, Archaeology, Museums & Youth Affairs Department is hereby accorded to the up-gradation of the post of Accounts Officer from (BPS-16) to (BPS-17) in Directorate of Culture Khyber Pakhtunkhwa on the basis of parity with immediate effect.

> SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA SPORTS, CULTURE, TOURISM, ARCHAEOLOGY, MUSEUMS & YOUTH AFFAIRS DEPARTMENT

Mg.SO(FR)FD/7-34/2020

Dated:-19-01-2021

Copy forwarded to the Accountant General Khyber Pakhtunkhwa Peshawar for siformation and necessary action.

> SECTION OFFICER (FR) FINANCE DEPARTMENT

Endstr- of even No & Date

Copy to.

1- Director General, Khyber Pakhtunkhwa, Culture & Tourism Authority.

2- Director Culture Khyber Pakhtunkhwa.

3- Budget Officer -III Finance Department.

4- PS to Secretary Sports, Culture, Tourism, Archaeology, Museums & Affairs Department.

5- Officer concerned

SECTION OFFICER (CULTURE)