

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 187 /2018

Shibli Khan..... Appellant

Versus

The Govt. of KPK and others..... Respondents

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Through

Appellant

**Khaled Rahman**  
Advocate

Supreme Court of Pakistan  
3-D, Haroon Mansion  
Khyber Bazar, Peshawar  
Off: Tel: 091-2592458

Dated: 22 /01/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 187/2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 67

Dated 22-1-2018

**Shibli Khan**

Assistant Director

Directorate of LG&RDD, Peshawar ..... **Appellant**

Versus

1. **The Govt. of Khyber Pakhtunkhwa**  
through Chief Secretary,  
Civil Secretariat, Peshawar.
2. **The Secretary**  
to Govt. of Khyber Pakhtunkhwa  
Establishment Department,  
Civil Secretariat, Peshawar.
3. **The Secretary**  
to Govt. of Khyber Pakhtunkhwa  
Local Govt. & Rural Development Department,  
Civil Secretariat, Peshawar ..... **Respondents**
4. Ahmed Munir, AD, LG & RDD Charsadda.

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 22.08.2017 WHEREBY ALTHOUGH APPELLANT WAS GIVEN SENIORITY FROM A RETROSPECTIVE DATE BUT THE ANTEDATION OF PROMOTION W.E.F. 22.11.1991 WITH BACK BENEFITS WAS NOT ALLOWED AGAINST WHICH APPELLANT FILED DEPARTMENTAL REPRESENTATION BEFORE THE COMPETENT AUTHORITY ON 25.09.2017 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD.

**PRAYER:**

On acceptance of the instant appeal, the decision of the Respondents to the extent of grant of seniority vide impugned Notification dated 22.08.2017 may graciously be modified by antedating the promotion of the appellant as Assistant Director (BPS-17) w.e.f. 22.11.1991 with all consequential back benefits.

Filed to Registrar

Registrar

22/1/18 - Re-submitted to - day and filed.  
Registrar 9/2/18

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. **That** appellant and others were initially appointed as Progress Officers (BPS-16) in the then Local Government & Rural Development Department way back in the year 1988 on contract basis. Subsequently, they approached the Hon'ble Peshawar High Court Peshawar for regularization of their services but could not succeed and meanwhile their services were terminated. Their request before the Hon'ble Apex Court also failed and they were directed to approach the Provincial Service Tribunal. On their approach to the Service Tribunal their appeals were dismissed and consequently they again approached the Apex Court and finally their appeals allowed vide Judgment dated 25.08.2005 and appellant and others were reinstated into service *with all back benefits*.
2. **That** the judgment of the Hon'ble Apex Court was implemented by the Department by reinstating the appellant and others in service with all back benefits and *regularized them with effect from the date of their initial appointment* vide notification dated 10.11.2005 and 16.12.2005 (*Annex:-A & B*).
3. **That** since the appellant was also entitled for promotion to the higher grade as a consequence of the Judgment of the Hon'ble Apex Court which was denied to him, therefore, appellant and others filed writ Petition No.793/2007 in the Hon'ble Peshawar High Court Peshawar which was disposed of with certain observation vide order dated 18.10.2011 (*Annex:-C*) with direction to the Department to decide the matter in accordance with law as per the observation of the Hon'ble Court given in the order viz:

*"It is not clear from the available record that when the petitioners became eligible for being promoted to the next higher scale and what were the rules applicable thereto and what was the ratio of vacancies to be filled through the promotion and what was the ratio of the vacancies to be filled by initial recruitment. All these questions are to be decided by the Department in the first instance, we, therefore, would not embark upon*

*such exercise while hearing the petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. We, therefore, while disposing of this writ petition direct the office to send it to the departmental authority to decide it in accordance with law as hinted to above within two months. This writ petition, thus, stands disposed of.”*

Thus the Hon'ble Court directed for determining as to:-

- i. *When the petitioners became eligible to the next higher grade?*
  - ii. *What were the Rules applicable thereto (service rules)?*
  - iii. *What was the ratio of vacancies to be filled by initial recruitment/promotion?*
4. **That** the Department, in the light of the Judgment *ibid*, took up the case of the appellant and others and asked for the advise of the Establishment Department and Finance Department as would be evident from the letter dated 26.11.2011 (*Annex:-D*) wherein in Para-5 it has been admitted that *“According to service rules notified on 01.12.1991, the length of service for promotion of Progress Officer (BPS-16) to the post of Assistant Director (BPS-17) LG&RDD was 03 years. The initial date of appointment of the petitioner was 22.11.1988 and thus they have completed the required length of service on 22.11.1991 and became eligible for promotion to the post of AD (BPS-17) LG&RDD at that time but they could not be promoted as their status was contract.*”
5. **That** the Establishment Department vide letter dated 20.12.2011 (*Annex:-E*) advised that *in terms of the employees on contract basis (Regulation of services) Act, 1989 read with the Judgment of the Apex Court announced on 25.08.2005, the services of the appellant stood regularized with effect from the date of their contractual appointments. The Department is therefore, required to determine their seniority viz-a-viz those appointed on regular basis in the defunct Directorate and consider their promotion in the light of the service rules of their posts subject to the availability of vacant positions in the cadre/service group.*

6. **That** as per Seniority List as stood on 31.12.1992 circulated vide letter dated 13.02.1993 (**Annex:-F**) the total sanctioned posts of Assistant Directors (BPS-17) as stood on 31.12.1992 were 34 and as per the Service Rules notified on 01.12.1991 (**Annex:-G**), the ratio of promotion and direct induction was 30%:70% out of which 24 posts fell in the quota of initial recruitment while 10 posts fell in the promotion quota. At the total 05 Progress Officers (BPS-16) were promoted vide order dated 03.08.1992 (**Annex:-H**) against the available share of 10 posts and thus promotion quota was short of 05 posts against which the appellant could have been promoted had he been in regular service on the basis of their entitlement as declared by the Hon'ble Court subsequently alongwith consequential back benefits.
7. That inspite of the clear position as explained above still the desired promotion was not granted to the petitioners, therefore, COC No.87-P/2012 was filed before this Hon'ble Court, which was disposed of vide order dated 16.08.2012 (**Annex:-I**) in view of the statement of the learned Additional Advocate General that the promotion case of the petitioners could not be processed as they had not provided ACRs for consideration of the Departmental Promotion Committee, however, it was also observed that the petitioners and others might invoke their remedy before an appropriate legal forum if so advised.
8. **That** later on, appellant and others were promoted to the post of Assistant Director (BPS-17) but with immediate effect instead of due date vide order dated 16.05.2013 (**Annex:-J**). The appellant and his other colleagues challenged the order *ibid*, to the extent of its immediate operation vide Departmental Representations dated 10.06.2013 which were duly processed and culminated in approval by the competent authority vide Statement (**Annex:-K**) wherein the appellant and others were shown to have been appointed w.e.f. 22.11.1988. The decision was yet to be implemented.
9. **That** in the light of the approval mentioned above for further clarification of the seniority of the appellant and others the Department called for the advise of the Establishment Department vide letter dated 07.11.2013

(*Annex:-L*) upon which the Establishment Department gave its opinion vide letter dated 10.01.2014 (*Annex:-M*) whereafter a Tentative Seniority List was circulated vide letter dated 14.03.2014 (*Annex:-N*) showing the seniority position of the appellant as approved by the competent authority upon which appellant and others submitted the observations but meanwhile the those employees who became juniors as a result of regaining seniority of the appellant and others also submitted objections upon the seniority of appellant and others which was allowed vide order dated 22.05.2014 (*Annex:-O*) thereby again the appellant and others were wrongly held to be juniors and thus the earlier promotion with immediate effect of the appellant was restored by setting aside the approval of the Chief Secretary and immediately the final Seniority List was issued vide letter dated 28.05.2014 (*Annex:-P*).

10. **That** the Seniority List *ibid*, was called in question by the appellant and others through departmental Representations (*Annex:-Q*) in the first instance and then through Service Appeals (*Annex:-R*) before the Khyber Pakhtunkhwa Service Tribunal. During pendency of the appeals, again vide letter dated 27.10.2015 (*Annex:-S*) the seniority positions of the appellant and others were restored however the date of Promotion was again shown as 16.05.2013 and 27.08.2012 instead of 22.11.1991, accordingly observations dated 27.11.2015 (*Annex:-T*) were raised on the Tentative Seniority List.
11. **That** the appellant and others withdrew their Service Appeals as their grievances had been fully redressed and that they would be allowed due seniority with all back benefits, however vide the impugned Notification dated 22.08.2017 (*Annex:-U*) the grievances of the appellant and others have been redressed by granting them seniority w.e.f. 22.11.1991 but other back benefits including antedation of promotion were not allowed for which they preferred Departmental Representations on 25.09.2017 (*Annex:-V*) but the same were not disposed of as per the law, hence the instant appeal *inter-alia* on the following grounds:-



**Grounds:**

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully refused the grant of antedation of promotion w.e.f. 22.11.1991 with back benefits, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That it is admitted position that appellant was reinstated into service by the Hon'ble Apex Court with all back benefits including promotion, up-gradation etc. falling due during the course of service and in the same spirit the matter was earlier interpreted by the Establishment Department and subsequently agreed to by the competent authority, therefore, the appellant was not only entitled for promotion to the next higher grade but seniority alongwith back benefits with effect from the due date i.e. 22.11.1991.
- C. That similarly in the light of the judgment of the Hon'ble Peshawar High Court, Peshawar dated 18.10.2011 the Department vide letter dated 26.11.2011 conceded to the position that the promotion of the appellant had become due w.e.f. 22.11.1991 alongwith back benefits and the advice on the same subject matter was also called from the Establishment Department which was given in affirmative thereby leaving no room for any suspicion into the matter but inspite of the same the appellant was denied the back benefits which has deprived the appellant of his due rights.
- D. **That** the appellant and his other colleagues are not only entitled for seniority from the due date i.e. 22.11.1991 but also entitled to other benefits including antedation of promotion in the light of the Judgment of the Hon'ble Supreme Court of Pakistan as well as the order of the Hon'ble Peshawar High Court, Peshawar.

E. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

Appellant

*Saif Ali*  
Khaled Rahman,  
Advocate,  
Supreme Court of Pakistan

Dated: 22/01/2018



GOVERNMENT OF NW.F.P.,  
LOCAL GOVT. ELECTION AND RURAL  
DEVELOPMENT DEPARTMENT

NOTIFICATION

Dated Peshawar, the 10<sup>th</sup> November, 2005

No.SO(LG-I)3-323/03.- Consequent upon acceptance of Civil Appeals No.44, 45, 47 to 79 of 2005, 1409 of 2004 and 319 of 2005 and setting aside of this Department Notification No.SO(LG-I)2-113/96; dated 30-5-2003 by the Supreme Court of Pakistan vide Judgement dated 25-08-2005, the Competent Authority is pleased to re-instate in service the following officers/officials of the Local Government and Rural Development Department, NWFP with effect from the date of their termination from service viz 30-5-2003 with all back benefits and their services regularized from the date of their initial appointment:-

| Sl.No. | Name of officer/official | Designation      | with BPS         |
|--------|--------------------------|------------------|------------------|
| 1.     | Mr.Zafrullah Khan        | Planning Officer | Officer (BPS-17) |
| 2.     | Mr.Muhammad Zahoor       |                  | do-              |
| 3.     | Mr.Muhammad Paheem       |                  | do-              |
| 4.     | Mr.Muhammad Iqbal        |                  | do-              |
| 5.     | Mr.Pervez Khan           |                  | do-              |
| 6.     | Mr.Attiq-Ur-Rehman.      |                  | do-              |
| 7.     | Mr.Fakhr-Uz-Zaman        |                  | do-              |
| 8.     | Mr.Sarfraz Khan          |                  | do-              |
| 9.     | Mr.Arshad Zia            |                  | do-              |
| 10.    | Mr.Shad Muhammad         | Progress Officer | Officer (BPS-16) |
| 11.    | Mr.Raza Ullah Khan       |                  | do-              |
| 12.    | Mr.Sheraz Ahmed          |                  | do-              |
| 13.    | Mr.Abdur Rashid          |                  | do-              |
| 14.    | Mr.Fazlullah             |                  | do-              |
| 15.    | Mr.Muhammad Raees Khan   | Sub-Engineer     | Officer (BPS-11) |
| 16.    | Mr.Muhammad Ilyas        |                  | do-              |
| 17.    | Mr.Aziz-Ur-Rehman        |                  | do-              |
| 18.    | Mr.Muhammad Siddiq       |                  | do-              |
| 19.    | Mr.Asghar Hussain        |                  | do-              |
| 20.    | Mr.Salim Javed           |                  | do-              |
| 21.    | Mr.Amin Gul              |                  | do-              |
| 22.    | Mr.Dilawar Khan          |                  | do-              |

Annex A

*[Signature]*

GOVERNMENT OF N.W.F.P  
LOCAL GOVT. ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

NOTIFICATION

Dated Peshawar, the 10<sup>th</sup> November, 2005

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| Sr.No. | Name of officer/Official | Designation with BPS      |
|--------|--------------------------|---------------------------|
| 1.     | Mr. Zafrullah Khan       | Planning Officer (BPS-17) |
| 2.     | Mr. Muhammad Zahoor      | -do-                      |
| 3.     | Mr. Muhammad Faheem      | -do-                      |
| 4.     | Mr. Muhammad Iqbal       | -do-                      |
| 5.     | Mr. Pervez Khan          | -do-                      |
| 6.     | Mr. Attiq-ur-Rehman      | -do-                      |
| 7.     | Mr. Fakhr-uz-Zaman       | -do-                      |
| 8.     | Mr. Sarfaraz Khan        | -do-                      |
| 9.     | Mr. Arshad Zia           | -do-                      |
| 10.    | Mr. Shad Muhammad        | Progress Officer (BPS-16) |
| 11.    | Mr. Razaullah Khan       | -do-                      |
| 12.    | Mr. Sheraz Ahmad         | -do-                      |
| 13.    | Mr. Abdur Rashid         | -do-                      |
| 14.    | Mr. Fazlullah            | -do-                      |
| 15.    | Mr. Muhammad Raees Khan  | Sub-Engineer (BPS-11)     |
| 16.    | Mr. Muhammad Ilyas       | -do-                      |
| 17.    | Mr. Aziz-ur-Rehman       | -do-                      |
| 18.    | Mr. Muhammad Siddiq      | -do-                      |
| 19.    | Mr. Asghar Hussain       | -do-                      |
| 20.    | Mr. Salim Javed          | -do-                      |
| 21.    | Mr. Amin Gul             | -do-                      |
| 22.    | Mr. Dilawar Khan         | -do-                      |

GOVERNMENT OF N.W.F.P.,  
LOCAL GOVT. ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

NOTIFICATION

*Annex B*

Dated Peshawar, the 16<sup>th</sup> December, 2005

No.SO(LG-1)3-323/03. In continuation of this Department Notification of even number dated 10-11-2005, the Competent Authority is pleased to re-instate in service the following officers/officials of the Local Government and Rural Development Department, NWFP with effect from the date of their termination from service viz 30-5-2003 with all back benefits and their services regularized from the date of their initial appointment:-

| Sl.No. | Name of officer/official  | Designation with BPS      |
|--------|---------------------------|---------------------------|
| 1.     | Mr. Muhammad Yahya Tanoli | Planning Officer (BPS-17) |
| 2. ✓   | Mr. Shibli Khan           | Progress Officer (BPS-16) |
| 3. ✓   | Mr. Ziaullah Khan         | Stenographer (BPS-12)     |
| 4. ✓   | Mr. Mislah-Ud-Din.        | Sub-Engineer (BPS 11)     |
| 5.     | Mr. Tariq Khan            | -do-                      |
| 6.     | Mr. Hayat Khan            | -do-                      |
| 7.     | Mr. Abdur Rehman          | -do-                      |

2. On re-instatement these officers/officials are placed in the Surplus Pool of Local Government and Rural Development Department for which Finance Department shall create posts, till they are adjusted as per policy of the Provincial Government.

SECRETARY TO GOVT. OF NWFP,  
LOCAL GOVT. ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

Endst. No.SO(LG-1)3-323/03 Dated Peshawar, the 16<sup>th</sup> December, 2005

Copy is forwarded to:-

1. All the Administrative Secretaries, Government of NWFP.
2. The Accountant General, NWFP, Peshawar.
3. The Registrar, NWFP Service Tribunal, Peshawar.
4. The Director General (D&M), LG & RDD.
5. All District Coordination Officers in NWFP.
6. The PS to Chief Secretary, NWFP, Peshawar.
7. The PS to Minister for LG & RD, NWFP, Peshawar.
8. The PS to Secretary, LG & RDD.
9. The Director, FATA, LG & RDD, Peshawar.
10. The Section Officer (Surplus Pool), E&A Department.
11. The Section Officer (General), LG & RDD.
12. All Officers/officials concerned.
13. Personal file of the officer/official concerned.

(DIL. MUHAMMAD)  
SECTION OFFICER (ETAB.)

GOVERNMENT OF N.W.F.P  
LOCAL GOVT. ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

NOTIFICATION

Dated Peshawar, the 16<sup>th</sup> December, 2005

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| Sr.No. | Name of officer/Official  | Designation with BPS      |
|--------|---------------------------|---------------------------|
| 1.     | Mr. Muhammad Yahya Tanoli | Planning Officer (BPS-17) |
| 2.     | Mr. Shibli Khan           | Progress Officer (BPS-16) |
| 3.     | Mr. Ziaullah Khan         | Stenographer (BPS-12)     |
| 4.     | Mr. Mislah-ud-Din         | Sub-Engineer (BPS-1)      |
| 5.     | Mr. Tariq Khan            | -do-                      |
| 6.     | Mr. Hayat Khan            | -do-                      |
| 7.     | Mr. Abdur Rehman          | -do-                      |

2. On re-instatement these officers/officials are placed in the Surplus Pool of Local Government and Rural Development Department for which Finance Department shall create posts, till they are adjusted as per policy of the Provincial Government.

Sd/-

SECRETARY TO THE GOVT. OF NWFP  
LOCAL GOVT: ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

Endst: No.SO(LG-I)3-323/03

Dated Peshawar, the 16<sup>th</sup> December, 2005

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2. The Accountant General, NWFP, Peshawar
3. The Registrar, NWFP Service Tribunal, Peshawar
4. The Director General (D&M), LG & RDD.
5. All District Coordination Officer in NWFP.
6. The PS to Chief Secretary, NWFP, Peshawar
7. The PS to Minister for LG & RD, NWFP, Peshawar
8. The PS to Secretary, Local Govt. & RDD.
9. The Director, FATA, LG & RDD, Peshawar.
10. The Section Officer (Surplus Pool), E&A Department.
11. The Section Officer (General), LG & RDD.
12. All Officers/officials concerned.
13. Personal file of the officer/official concerned.

Sd/-

(DIL MUHAMMAD)  
SECTION OFFICER FR (ETAB:)

Writ Petition No: 293/2007



10

1. Raza Ullah Khan.
2. Shad Muhammad
3. Sheraz Ahmad.
4. Abdur Rashid
5. Fazl Ullah.
6. Shibli Khan.

Progress Officers C/o Local Government and  
 Rural Development Department, Govt. of  
 N.W.F.P, Peshawar.....Petitioners

VERSUS

1. Chief Secretary. Government of N.W.F.P., Peshawar.
2. Secretary to Government of N.W.F.P, Establishment  
 Department, Peshawar.
3. Secretary to Government of N.W.F.P,  
 Finance Department, Peshawar.
4. Secretary to Government of N.W.F.P,  
 Local Government and Rural Development  
 Department, Peshawar.....Respondents.

ATTESTED

*[Signature]*

*A to* *[Signature]*

IN THE PESHAWAR HIGH COURT, PESHAWAR.  
JUDICIAL DEPARTMENT

Writ-Petition No. 783 of 11.12.2007

JUDGMENT

Date of hearing..... 18.10.2010

Appellant/Petitioner (s) (Raza ul Khan) *Amir M. Khan AAG  
Faisalpuri, ADJ*

Respondent (s) (Govt. of NWFP) *Amir M. Khan AAG  
AAG*

EJAZ AFZAL KHAN, C. J.- Petitioners

through the instant writ petition have asked for the issuance of an appropriate writ directing the respondents to give them the back benefits in accordance with the posts, they were to be promoted to, if they had not been placed in the surplus pool.

2. We heard this case on many occasions. On 16.11.2010 we while hearing this petition, directed the AAG to assist us by giving the formulation as under:-

" We heard this case even before. The only dispute emerging for the consideration of this Court is that though the petitioners were reinstated with back benefits but they were denied the benefits of higher grade to which they were to be promoted mechanically and as a matter of course. The learned AAG wants some

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May  
*[Signature]*  
D.A.

*Atu*

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time to see whether prayer of the petitioners can be countenanced especially when they were in the surplus pool at the relevant time. Adjourn to 15.12.2010".

3. The learned AAG after going through the record contended that rules providing for ratio of the vacancies to be filled by initial recruitment and by promotion did not remain the same throughout as they were amended from time to time, therefore, none of the questions urged by the petitioners could be examined without seeing what were the dates, the petitioners became eligible to be promoted to the next higher grade and what were the rules applicable thereto, therefore, it would be proper that this exercise be carried out by the Department itself.

4. We have gone through the record carefully and considered the submissions of the learned counsel for the parties.

5. It is not clear from the available record that when the petitioners became eligible for being promoted to the next higher scale and what were the rules applicable thereto and what

ATTESTED  
EXAMINER  
Rajeshwar Nath Gupta

2/11/10

Atte

13

was the ratio of the vacancies to be filled through the promotion and what was the ratio of the vacancies to be filled by initial recruitment. All these questions are to be decided by the Department in the first instance, we, therefore, would not embark upon such exercise while hearing a petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. We, therefore, while disposing of this writ petition direct the office to send it to the Departmental Authority to decide it in accordance with law as hinted to above within two months. This writ petitions, thus, stands disposed of.

Edy/ Ejaz A7zal Kh  
Sed/ Yalga A7sidi  
Judge

Dated: 18.10.2011

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20/10/2011

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Date of Presentation of Application 19/10/2011  
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POST IMMEDIATE

COURT MATTER

GOVERNMENT OF KHYBER PAKHTUNKHWA  
LOCAL GOVERNMENT, ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

No. SO (LG-I) 3-367/PUC/2007

Dated Peshawar, the 26<sup>th</sup> November, 2011

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Establishment Department

2. The Secretary to Govt. of Khyber Pakhtunkhwa,  
Finance Department

Subject:- REQUEST OF PROMOTION IN LIGHT OF JUDGEMENT OF  
THE PESHAWAR HIGH COURT PESHAWAR IN WRIT  
PETITION NO. 793/2007

Dear Sir,

I am directed to refer to the subject cited above and to say that following surplus Progress Officers (BS-16) of this Department have requested for grant of promotion to the post of Assistant Directors (BS-17) in LG&RDD with effect from 01/12/1991 as per service rules in vogue in 1991 in accordance with seniority list in light of decision/order dated 18-10-2011 of the Peshawar High Court Peshawar (copy attached):-

1. Mr. Sheraz Ahmad
2. Mr. Abdur Rashid
3. Mr. Shibli Khan
4. Mr. Shad Muhammad
5. Mr. Fazlullah

2. Brief facts of that case are stated that above Progress Officers (BS-16) were appointed under the scheme "Strengthening of LG&RDD" during 1988 along with others. The posts against which the incumbents were working created on revenue side with effect from 01-01-1993 but status of the incumbents remained the same. They filed writ petition in the Peshawar High Court for regularization of their services, which was dismissed. Aggrieved of the decision of the learned court, they filed Civil Appeals in the Supreme Court of Pakistan. The Apex Court also dismissed their appeals with the direction to file appeals in Khyber Pakhtunkhwa Service Tribunal. They filed appeals in learned Service Tribunal which were also dismissed. Ultimately, the incumbents filed Civil Appeals in the Supreme Court of Pakistan. The Apex Court accepted their appeals and ordered for their re-instatement in service with all back benefits and regularized them from the date of their initial appointment vide Judgement dated 25-08-2005 (copy attached).

3. In implementation of the Judgement of the Apex Court, all contract employees were regularized with all back benefits including seniority after obtaining advice from the Establishment Department. The above Progress Officer were placed in the Surplus Pool of LG&RDD as offices of Director General, LG&RDD and its allied offices in the settled districts along with posts were abolished during 2001 in devolution process.

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MOST IMMEDIATE

COURT MATTER  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
LOCAL GOVERNMENT, ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

No. SO(LG-1)3-367/PUC/2007

Dated Peshawar, the 26<sup>th</sup> November, 2011

1. The Secretary to Govt, of Khyber Pakhtunkhwa.  
Establishment Department
2. The Secretary to Govt, of Khyber Pakhtunkhwa.  
Finance Department

Subject:- REQUEST OF PROMOTION IN LIGHT OF JUDGMENT OF THE PESHAWAR HIGH COURT PESHAWAR IN WRIT PETITION NO. 793/2007

Dear Sir,

I am directed to refer to the subject cited above and to say that following surplus Progress Officers (BPS-16) of this Department have requested for grant of promotion to the post of Assistant Directors (BS-17) in LG&RDD with effect from 01/12/1991 as per service rules in vogue in 1991 in accordance with seniority list in light of decision/order dated 18-10-2011 of the Peshawar High Court Peshawar (copy attached):-

1. Mr. Sheraz Ahmad
2. Mr. Abdur Rashid
3. Mr. Shibli Khan
4. Mr. Shad Muhammad
5. Mr. Fazlullah

2. Brief fact of the case are stated that above Progress Officers (BPS-16) were appointed under the scheme "Strengthening of LG&RDD" during 1988 alongwith others. The posts against which the incumbents were working created on revenue side with effect from 01.01.1993 but status of the incumbents remained the same. They filed writ petition in the Peshawar High Court for regularization of their services, which was dismissed. Aggrieved of the decision of the learned court, they filed Civil Appeals in the Supreme Court of Pakistan. The Apex Court also dismissed their appeals with the direction to file appeals in Khyber Pakhtunkhwa Service Tribunal. They filed appeals in learned Service Tribunal which were also dismissed. Ultimately, the incumbents filed Civil Appeals in the Supreme Court of Pakistan. The Apex Court accepted their appeals and ordered for their re-instatement in service with all back benefits and regularized them from the date of their initial appointment vide judgment dated 25.08.2005 (copy attached).

3. In implementation of the Judgment of the Apex Court, all contract employees were regularized with all back benefits including Seniority after obtaining advice from the Establishment Department. The above Progress Officers were placed in the Surplus Pool of LG&RDD as Offices of Director General LG&RDD and its allied offices in the settled districts alongwith posts were abolished during 2001 in devolution Process.

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4. The above incumbents filed writ petition No. 797/2007 in the Peshawar High Court, Peshawar for implementation of decision of the Apex Court and prayed for promotion to the post of Assistant Directors (BS-17) in I.G.&RDD (copy attached). This Department deposited comments in the learned court accordingly (copy attached). The Peshawar High Court, Peshawar has disposed of the writ petition of the petition vide judgement dated 18-10-2011 in the following manner (copy attached):-


"It is not clear from the available record that when the petitioners became eligible for being promoted to the next higher scale and what were the rules applicable thereto and what was the ratio of the vacancies to be filled through promotion and what was the ratio of the vacancies to be filled by initial recruitment. All these questions are to be decided by the Department in the first instance, we, therefore, would not embark upon such exercise while hearing a petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. We, therefore, while disposing of this writ petition direct the office to send it to the Departmental Authority to decide it in accordance with law as hinted to above within two months. This writ petition, thus, stands disposed of."

5. According to Service Rules notified on 01-12-1991, the length of service for promotion of Progress Officer (BS-16) to the post of Assistant Director (BS-17) I.G.&RDD was 3 years. The initial date of appointments of the petitioners was 22/11/1988 and thus they have completed the required length of service on 22-11-1991 and become eligible for promotion to the post of Assistant Director (BS-17) I.G.&RDD at that time but they could not be promoted as their status was contract/project employees. When they were re-instated in service with all back benefits in implementation of judgement of the Supreme Court of Pakistan, the Directorate General, I.G.&RDD and its allied offices in the settled districts alongwith posts were abolished in 2001 in devolution process. At present this Department has no post of Assistant Director lying vacant under promotion quota against which the promotion case of the petitioners could be considered.

6. In view of above position, I am, directed to request you to kindly advise this Department regarding admissibility of promotion to the post of Assistant Director (BS-17) in I.G.&RDD so as to facilitate this Department to take decision in the subject case keeping in view above order of the Peshawar High Court, Peshawar.

Encl: As Above.

Yours faithfully,

  
(SHAFIQ KHAN)  
SECTION OFFICER (ESTAB)

*ATQ*

4. The above incumbents filed writ petition No.793/2007 in the Peshawar High Court, Peshawar for implementation of decision of the Apex Court and prayed for promotion to the post of Assistant Directors (BSP-17) in LG&RDD (copy attached). This Department deposited comments in the learned Court accordingly (copy attached). The Peshawar High Court, Peshawar has disposed of the writ petition of the petition vide Judgment dated 18.10.2011 in the following manner (copy attached):-

“It is not clear from the available record that when the petitioners became eligible for being promoted to the next higher scale and what were the rules applicable thereto and what was the ratio of the vacancies to be filled through promotion and what was the ratio of the vacancies to be filled by initial recruitment. All these questions are to be decided by the Department in the first instance, we, therefore, would not embark upon such exercise while hearing a petitioner under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. We, therefore, while deposing of this writ petition direct the office to send it to the Departmental Authority to decide it in accordance with law as hinted to above within two months. This writ petition, thus, stands disposed of.”

5. Accordance to Service Rules notified on 01.12.1991, the length of service for Promotion of Progress Officer (BS-16) to the post of Assistant Director (BS-17) LG&RDD was 3 years. The initial date appointments of the petitioners was 22/11/1988 and thus they have completed the required length of service on 22.11.1991 and become eligible for promotion to the post of Assistant Director (BS-17) LG&RDD at that time but they could not be promoted as their status was contract/project employees. When they were re-instated in service with all back benefits in implementation of Judgment of the Supreme Court of Pakistan, the Directorate General, LG&RDD and its allied offices in the settled districts alongwith posts were abolished in 2001 in devolution process. At present this Department has no post of Assistant Director lying vacant under promotion quota against which the promotion case of the petitioners could be considered.

6. In view of above position, I am, directed to request you to kindly advise this Department regarding admissibility of promotion to the post of Assistant Director (BS-17) in LG&RDD so as to facilitate this Department to take decision in the subject case keeping in view above order of the Peshawar High Court, Peshawar.

Encl: As above

Yours faithfully,  
Sd/-  
(SHAHID KHAN)  
SECTION OFFICER (ESTAB)

Annex F

16



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

No. SOR-IV(ED)/6-1/2011/  
Dated, Peshawar, the 20<sup>th</sup> Decr, 2011

To

The Secretary to Govt of Khyber Pakhtunkhwa,  
Local Govt & RE Department.

SUBJECT: REQUEST OF PROMOTION IN LIGHT OF JUDGMENT OF THE  
PESHAWAR HIGH COURT IN WRIT PETITION NO. 723/2007

Dear Sir,

I am directed to refer to your letter No. SO(LG-I)3-367/PHC/2007 dated 26/11/2011 on the subject noted above and to state that in terms of the Employees on Contract Basis (Regularization of Services) Act, 1989, read with the judgment of the Apex Court announced on 25/8/2005, services of the appellants stood regularized with effect from the date of their contractual appointments.

2. The Department is, therefore, required to determine their seniority vis-à-vis those appointed on regular basis in the defunct Directorate and consider their promotion in light of the service rules of the posts, subject to availability of vacant positions in the Cadre/Service Group.

Yours faithfully,

Sd/-

(MUSHTAQ HUSSAIN)  
Senior Officer (R-IV)

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GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

16

No.SOR-IV(ED)/6-1/2011/  
Dated, Peshawar, the 20<sup>th</sup> Dec: 2011

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Local Govt. & RD Department.

SUBJECT: REQUEST OF PROMOTION IN LIGHT OF JUDGMENT OF THE  
PESHAWAR HIGH COURT IN WRIT PETITION NO.793/2007.

Dear Sir,

I am directed to refer to your letter No.SO(LG-I)/3-367/PHC/2007 dated 26/11/2011 on the subject noted above and to state that in terms of the Employees on Contract Basis (Regularization of Services) Act, 1989, read with the Judgment of the Apex Court announced on 25/8/2005, services of the appellants stood regularized with effect from the date of their contractual appointments.

2. The Department is, therefore, required to determine their seniority viz-a-viz those appointed on regular basis in the defunct Directorate and consider their promotion in light of the service rules of the posts, subject to availability of vacant positions in the Cadre/Service Group.

Yours faithfully,  
Sd/-  
(MUSHTAQ HUSSAIN)  
Section Officer (R-IV)

GOVERNMENT OF N.W.F.P.,  
LOCAL GOVERNMENT, ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT.

NO. 50 (LG-I) 4-118/B/89/  
Dated Pesh: the 13th Feb. 1993

To

Annex F

1. Pir Zahoor Mohammad,  
AD, LGRDD, Malakand.
2. Mr. Saadat Khan,  
AD, LGRDD, SW-Agency.
3. Mr. Dul Ahmad,  
AD, LGRDD, Sunair.
4. Mr. Gulab Khan,  
AD, LGRDD, Swat.
5. Mr. Fazli Qadir,  
AD, LGRDD, Charsadda.
6. Mr. Lal Mohammad,  
AD, LGRDD, Kohat.
7. ~~Mr. (Khalid) Saad Khan,~~  
AD, LGRDD, Peshawar.
8. Syed Iqbal Shah,  
AD, LGRDD, Mardan.
9. Mr. Ghulam Habib,  
AD, LGRDD, Nowshera.
10. Mr. Mohammad Iqbal,  
AD, LGRDD, Swabi.
11. Mr. Rasool Khan,  
AD, LGRDD, Peshawar.
12. Syed Mubahir Shah,  
AD, LGRDD, On deputation  
to Peshawar (NWFP, Mardan).
13. Mr. Mohammad Aslam,  
AD, LGRDD, Abbottabad.
14. Mr. Asmatullah,  
AD, District General, LGRDD,  
NWFP, Peshawar.
15. Mr. Mohammad Qasim Orakzai,  
AD, LGRDD, Kurram Agency.
16. Mr. Nisar Ali,  
AD, LGRDD, Khyber Agency.
17. Mr. Fiaz Mohammad Khan,  
AD, LGRDD, Dir at Timergara.
18. Mr. Faraz Ishaq,  
AD, LGRDD, Bajour Agency.
19. Mr. Sakhi Jan,  
AD, LGRDD, Mohmand Agency.

Sentry List (BS-17)  
Total Sentry List

CONTD: ... P/

GOVERNMENT OF N.W.F.P  
LOCAL GOVERNMENT ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

No.SO(LG-I)4-118/8/89  
Dated Pesh: the 13<sup>th</sup> Feb. 1993

To

1. Pir Zahoor Muhammad,  
AD, LGRDD, Malakand.
2. Mr. Saadat Khan,  
AD, LGRDD, SW-Agency.
3. Mr. Dul Ahmad,  
AD, LGRDD, Sunair.
4. Mr. Gulab Khan,  
AD, LGRDD, Swat.
5. Mr. Fazli Qadir,  
AD, LGRDD, Charsadda.
6. Mr. Lal Muhammad,  
AD, LGRDD, Kohat.
7. \_\_\_\_\_  
AD, LGRDD, Peshawar.
8. Syed Iqbal Shah,  
AD, LGRDD, Mardan.
9. Mr. Ghulam Habib,  
AD, LGRDD, Nowshera.
10. Mr. Muhammad Iqbal,  
AD, LGRDD, Swabi.
11. Mr. Rasool Khan,  
AD, LGRDD, Bannu.
12. Syed Mutahir Shah,  
AD, LGRDD, On Deputation  
to Pak- \_\_\_\_\_ Scarp, Mardan.
13. Mr. Muhammad Aslam,  
AD, LGRDD, Abbottabad.
14. Mr. Asmatullah,  
AD, Dtr: General, LGRDD,  
NWFP, Peshawar.
15. Mr. Muhammad Qasim Orakzai,  
AD, LGRDD,, Kurram Agency.
16. Mr. Nisar Ali,  
AD, LGRDD, Khyber Agency.
17. Mr. Faiz Muhammad Khan,  
AD, LGRDD, Dir at Timergara
18. Mr. Israrullah,  
AD, LGRDD, Bajuar Agency.
19. Mr. Sakhi Jan,  
AD, LGRDD, Mohmand Agency.
20. Mr. Abdul Majeed Zakoori,  
AD, LGRDD, D.I.Khan.



20. Mr. Abdul Hajeed Zakoord,  
AD, LGRDD, D.I. Khan.
21. Mr. Khadim Mohammad Hussain,  
AD, LGRDD, Haripur.
22. Mr. Mashallah Khan,  
AD, LGRDD, NW-Agency.
23. Mr. Abdul Ghaffar,  
AD, LGRDD, Kohistan.
24. Mr. Mohammad Latif,  
AD, LGRDD, Tank.

-18-

SUBJECT:- FINAL SENIORITY LIST OF ASSISTANT DIRECTORS (BPS-17) IN LGRDD AS STOOD ON 31ST DEC, 1992.

A number of objections were received from the Assistant Directors (BPS-17) of Rural Development Department on the tentative seniority list circulated vide this Deptt. letter of even number dated 1st November, 1992, and after examining the objections, the Provincial Government in Local Government, Elections and Rural Development Department is pleased to circulate a final seniority list (copy enclosed) of Assistant Directors of Rural Development Department for information and record.

Encl: 1. A. B. C. D. E.

(*M. Khalid Rehman*)  
SECTION OFFICER-I

Encl: NO. 50 (L.S.-I) 4-11E/B/89/ Dated Pesh: the 9th Feb. 1993

Copy is forwarded to:-

1. The Director General, LGRDD, H.A.F.P., Peshawar for information pi.
2. All the Divisional Directors, LGRDD in NWFP.
3. The Manager, Government Printing Press, Peshawar for publication in the next Government gazettee.

H.M/-

(*M. Khalid Rehman*)  
SECTION OFFICER-I

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21. Khadim Muhammad Hussain,  
AD, LGRDD, Haripur.
22. Mr. Mashallah Khan,  
AD, LGRDD, NW-Agency.
23. Mr. Abdul Ghaffar,  
AD, LGRDD, Kohistan.
24. Mr. Muhammad Latif,  
AD, LGRDD, Tank.

Subject: FINAL SENIORITY LIST OF ASSISTANT DIRECTORS (BPS-17) IN  
LGRDD AS STOOD ON 31<sup>ST</sup> DEC, 1992.

A number of objections were received from the Assistant Directors (BPS-17) of Rural Development Department on the Tentative Seniority List circulated vide this Deptt. letter of even number dated 1st November, 1992, and after examining the objections, the Provincial Government in Local Government, Elections and Rural Development Department is pleased to circulate a final Seniority List (copy enclosed) of Assistant Directors of Rural Development Department for information and record.

Sd/-  
(FAZAL-UR-REHMAN)  
SECTION OFFICER-I

Encl: As Above

Endst: No.SO(LG-I)4-118/8/89      Dated Pesh: the 9<sup>th</sup> Feb. 1993

Copy is forwarded to :-

1. The Director General, LG&RDD, NWFP, Peshawar
2. All The Divisional Directors, LG&RDD, in NWFP.
3. The Manager, Government Printing Press, Peshawar for publication in the next Government gazette.

Sd/-  
SECTION OFFICER-I

LOCAL GOVERNMENT, ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

ANNEX-I

Sanctioned posts...34

FINAL SENIORITY LIST OF ASSISTANT DIRECTORS  
BPS-17 IN LG&RDD AS STOOD ON 31ST DEC. 1991.

| S.NO. | Name of Officer       | Education Qualification. | Date of birth with domicile. | Date of first entry into Govt. Service. | First Regular appointment to the service/Cadre. |     | Promotion to present BPS |     | Date of move-over to next higher grade. | REMARKS IF ANY |      |
|-------|-----------------------|--------------------------|------------------------------|---|---|-----|--------------------------|-----|---|----------------|------|
|       |                       |                          |                              |   | Date  | BPS | Method of recruitment.   | BPS |   |                | Date |
| 1     | 2                     | 3                        | 4                            | 5                                       | 6   | 7   | 8                        | 9   | 10                                      | 12             | 13   |
| 1.    | Mr. Zahoor Mohammad   | B.A.                     | 8-9-36<br>Mardan             | 8-12-65<br>BPS-5                        | 8-12-66   | 16  | Promotee                 | 17  | 13-12-74                                | 1-12-84        | -    |
| 2.    | Mr. Saadat Khan       | Matric                   | 10-12-33<br>S.W.A.           | 16-4-55<br>BPS-5                        | 16-4-56   | 6   | -do-                     | 17  | 15-5-75                                 | 1-12-88        | -    |
| 3.    | Mr. Dul Ahmad         | M.A.(Eco.)               | 1-5-50<br>S.W.A.             | 4-7-74<br>BPS-16                        | 4-7-74  | 16  | Direct                   | 17  | 18-7-78                                 | --             | --   |
| 4.    | Mr. Gulab Khan        | M.A(P.S)                 | 1-8-40<br>S.W.A.             | 15-4-74<br>Adhoc                        | 19-3-87   | 17  | -do-                     | 17  | 1-12-88                                 | 1-12-88        | --   |
| 5.    | Mr. Fazli Qadir       | M.A(Eco.)                | 9-6-48<br>Mardan.            | 16-7-74<br>Adhoc                        | 19-3-87   | 17  | -do-                     | 17  | --                                      | 1-12-88        | --   |
| 6.    | Mr. Lal Mohammad      | M.A(Eco.)                | 15-5-39<br>Mkd.              | 1-4-75<br>Adhoc                         | 19-3-87   | 17  | -do-                     | 17  | -                                       | 1-12-83        | --   |
| 7.    | Capt. (Retd) Sarfaraz | M.A(Eco)                 | 15-1-44<br>Kohat             | 1-4-75<br>Adhoc.                        | 19-3-87   | 17  | -do-                     | 17  | -                                       | 1-2-82         | --   |
| 8.    | Syed Iqbal Shah       | B.A., LLB.               | 3-3-44<br>Mansehra.          | 1-7-75<br>Adhoc.                        | 19-3-87   | 17  | -do-                     | 17  | --                                      | 1-12-88        | --   |

CONTD: ...P/2...

| 1   | 2                            | 3                        | 4                            | 5                             | 6       | 7   | 8        | 9   | 10     | 11      | 12  |
|-----|------------------------------|--------------------------|------------------------------|-------------------------------|---------|-----|----------|-----|--------|---------|-----|
| 9.  | Mr. Ghulam Habib             | M.Sc.<br>(Hon. Agr.)     | 14.11.47<br>Mardan.          | 1.4.75<br>(Adhoc)             | 19.3.87 | 17  | -do-     | --- | ---    | 1.12.88 | --- |
| 10. | Mr. Mohammad Iqbal           | M.Sc(Agri)               | 9.7.50<br>LIK                | 1.7.75<br>Adhoc.              | 19.3.87 | 17  | Direct   | --- | ---    | 1.12.88 | --- |
| 11. | Mr. Rasool Khan              | M.A(P.S)                 | 4.5.51<br>SWA                | 12.7.75<br>Adhoc.             | 19.3.87 | 17  | -do-     | --- | ---    | ---     | --- |
| 12. | Mr. Mutahir Shah             | M.Sc(Agri)               | 28.7.48<br>Mardan.           | 15.11.75<br>Adhoc.            | 19.3.87 | 17  | -do-     | --- | ---    | ---     | --- |
| 13. | Mr. Mohammad Aslam           | M.A.LLB.                 | 3.9.46<br>A.Abad.            | 27.12.75<br>Adhoc.            | 19.2.87 | 17  | -do-     | --- | ---    | 1.12.88 | --- |
| 14. | Mr. Asmatullah               | M.Sc(Agri)               | 8.7.51<br>DIK.               | 25.12.75<br>Adhoc.            | 19.3.87 | 17  | -do-     | --- | ---    | 1.12.88 | --- |
| 15. | Mr. Mohd Qasim<br>Orakzai.   | M.A(P.S)                 | 1.1.51<br>Orakzai<br>Agency. | 12.2.78<br>Adhoc.             | 19.1.87 | 17  | -do-     | --- | ---    | ---     | --- |
| 16. | Mr. Wisar Ali                | M.A(P.S)                 | 16.2.51<br>Pesh.             | 12.2.78                       | 19.3.87 | 17  | -do-     | --- | ---    | 1.12.88 | --- |
| 17. | Mr. Faiz Mohammad<br>Khan.   | M.A(P.S &<br>Journalism) | 12.4.82<br>N.W.A.            | 8.3.92                        | 8.3.92  | 17  | -do-     | --- | ---    | ---     | --- |
| 18. | Mr. Israrullah               | M.A(Ecb)                 | 19.4.64<br>Swabi.            | 8.3.92                        | 8.3.92  | 17  | -do-     | --- | ---    | ---     | --- |
| 19. | Mr. Sakhi Jan                | M.A(P.S)                 | 9.5.58<br>Bannu.             | 8.3.92                        | 8.3.92  | 17  | -do-     | --- | ---    | ---     | --- |
| 20. | Mr. Abdus Hajeed<br>Zakoori. | Matric                   | 1.5.37<br>DIK                | 16.4.58<br>(B-6 as Worker)    | 16.4.58 | B-6 | Promotee | 17  | 3-8-92 | ---     | --- |
| 21. | Mr. Khadim Mohd<br>Hussain.  | M.A.                     | 15.3.39<br>DIK               | 5.7.63<br>(B-9 as Supervisor) | 5.7.63  | B-9 | -do-     | 17  | 3.8.92 | ---     | --- |
| 22. | Mr. Mashallah Khan           | B.A.                     | 1.1.37<br>Kohat.             | 1.7.61<br>(B-9 Supervisor)    | 1.7.61  | B-9 | -do-     | 17  | 3.8.92 | ---     | --- |

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| 1   | 2                  | 3    | 4                           | 5   | 6       | 7    | 8                        | 9  | 10     |
|-----|--------------------|------|-----------------------------|---|---------|------|--------------------------|----|--------|
| 23. | Mr. Abdul Ghaffar  | B.A. | 25.6.40<br>Laksh<br>Marwat. | 45.2.65<br>(3-9 Supervisor)                               | 15.2.65 | E-9  | Promotee                 | 17 | 3.2.92 |
| 24. | Mr. Mohammed Latif | M.A. | 22.2.44<br>DIK              | 15.4.74<br>(3-16 Adhoc as<br>Cooperative<br>Officer IRD). | 15.4.74 | B-16 | Direct by<br>absorption. | 17 | 3.3.92 |

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GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE  
LOCAL GOVERNMENT, ELECTIONS AND RURAL  
DEVELOPMENT DEPARTMENT

NOTIFICATION

Peshawar, dated the 1st December, 1991.

NO.SO(LG-I)2-123/89. In exercise of the powers conferred by sub-rule (2) of rule 3 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Local Government and Rural Development Department, in consultation with the Services and General Administration Department and the Finance Department is pleased to direct that in this department notification No.DG(RWP)7(2)/73, dated 26-1-1978, the following further amendments shall be made namely:

AMENDMENTS

In the Appendix,-

(a) for the existing entries in column 6 against Serial No.2 the following entries shall be substituted, namely:

AD ✓ (i) Seventy per cent by initial recruitment; and

(ii) thirty per cent by promotion, on the basis of seniority-cum-fitness; from amongst the holders of the posts of Divisional Progress Officers with at least 3 years' service as such.";

(b) for the existing entries in columns 2 to 6 against serial No.9 the following entries shall respectively be substituted, namely;

|                | 2   | 3   | 4  | 5  | 6   |
|----------------|---|---|--|--|---|
| "Sub-Engineer. | (a) Secondary school certificate or equivalent qualification from a recognised Board; and | Secondary school certificate or equivalent qualification from a recognised Board. | Not less than 21 years and not more than 25 years! | (i) Seventy per cent by initial recruitment; | (ii) Twenty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Work Munshis with at least ten years' service as such, who have passed departmental Grade B examination; and |

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2 3 4 5 6

(b) three years' course Diploma in Civil Engineering from a recognised Institute.

(iii) ten per cent by promotion, on the basis of seniority cum-fitness, from amongst the holders of the posts of Draftsman with atleast five years' service as such."

(c) after Serial No.9 the following new entries shall be inserted in the respective columns, namely:

1 2 3 4 5 6

"9A. Draftsman.

(a) Secondary school certificate or equivalent qualification from a recognised Board; and

Secondary school certificate or equivalent qualification from a recognised Board.

Not less than 18 years' and not more than 25 years.

(i) By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Tracers who have atleast five years' service as such; or

(ii) if no suitable person is available for promotion, by initial recruitment";

(b) two years' course certificate or Diploma in Civil Draftsmanship from a recognised Institute.

Att J

(d) after the existing entries at serial No.17 the following new entries shall be added in the respective columns:

1 2 3 4 5 6

"18. Tracer.

Secondary school certificate or equivalent qualification

Not less than 16 years' and not more than 25 years!

By initial recruitment.

2 (1)  
DATED PESHAWAR THE 3RD AUGUST, 1922

NOTIFICATION

NO. 20 (L.G.-I) 2-5/22,-- The Governor North-West Frontier Province in consultation with the Departmental Promotion/Selection Committee is pleased to order the promotion of the following Divisional Progress Officers (BPS-16) to the posts of Assistant Directors (BPS-17) in Rural Development Department with immediate effect:-

1. Mr. Abdul Hafeed Zakari
2. Mr. Khadim Mohamad
3. Mr. Masud Khan
4. Mr. Abdul Gaffar
5. Mr. Mohammed Latif

SECRETARY TO GOVERNMENT OF NWFP  
LOCAL GOVERNMENT, ELECTRICITY & RURAL  
DEVELOPMENT DEPARTMENT

NO. 20 (L.G.-I) 2-5/22 Dated Pesh: the 3rd August, 1922

A copy is forwarded to:-

1. The Accountant General, W.A.P.P., Peshawar.
  2. The Director General, LRDD, NWFP, Peshawar.
  3. All the Divisional Directors, LRDD in NWFP.
  4. All the Assistant Directors, LRDD in NWFP.
  5. The District Accounts Officer, Haripur.
  6. The District Accounts Officer, Tank.
  7. The District Accounts Officer, Karak.
  8. The Agency Accounts Officer, NW-Agency.
  9. The District Accounts Officer, Abbottabad.
  10. Mr. Abdul Hafeed Zakari, Acting AD, Directorate General, LRDD, NWFP, Peshawar.
  11. Mr. Khadim Mohamad Ubain, acting AD, LRDD, Haripur.
  12. Mr. Masud Khan, acting AD, LRDD, NW-Agency.
  13. Mr. Abdul Gaffar, acting AD, LRDD, Tank.
  14. Mr. Mohammed Latif, acting AD, LRDD, Karak.
  15. The Manager, Government Printing Press Peshawar for publication in the next Government gazettee.
  16. Personal files of the officers concerned.
- Atc



GOVERNMENT OF N.W.F.P  
LOCAL GOVERNMENT ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

DATED PESHAWAR THE 3<sup>RD</sup> AUGUST, 1992

NOTIFICATION

NO.SO(LG-I)2-5/5,-- The Governor North-West Frontier Province in consultation with the Departmental Promotion/Selection Committee is pleased to order the promotion of the following Divisional Progress Officers (BPS-16) to the posts of Assistant Directors (BPS-17) in Rural Development Department with immediate effect:-

1. Mr. Abdul Majeed Zakoori
2. Mr. Khadim Muhammad Hussain
3. Mr. Mashallah Khan
4. Mr. Abdul Ghaffar
5. Mr. Muhammad Latif

SECRETARY TO GOVERNMENT OF NWFP  
LOCAL GOVERNMENT & RURAL  
DEVELOPMENT DEPARTMENT

Endst: No.SO(LG-I)2-5/5 Dated Pesh: the 3<sup>rd</sup> August, 1992

A copy is forwarded to:-

1. The Accountant General, N.W.F.P Peshawar
2. The Director General, LGRDD, NWFP, Peshawar
3. All the Divisional Directors, LGRDD in NWFP
4. All the Assistant Directors LGRDD in NWFP.
5. The District Accounts Officer, Haripur.
6. The District Accounts Officer, Tank.
7. The District Accounts Officer, Karak.
8. The Agency Accounts Officer, NW-Agency.
9. The District Accounts Officer, Abbottabad.
10. Mr. Abdul Majeed Zakoori, Acting AD, Directorate General, LGRDD, NWFP, Peshawar
11. Mr. Khadim Muhammad Hussain, acting AD, LGRDD, Haripur.
12. Mr. Mashallah Khan, acting AD, LGRDD, NW-Agency.
13. Mr. Abdul Ghaffar acting AD, LGRDD, Tank.
14. Mr. Muhammad Latif, acting AD, LRGDD, Karak.
15. The Manager, Government Printing Press, Peshawar for publication in the next Government gazette.
16. Personal files of the officers concerned.

Sd/-  
SECTION OFFICER

| Date of Order | Order or other proceedings with signature of the Judge   |
|---------------|--|
| 1             | 2  |
| 16.8.2012     | <p>C.M. (EH) No.729-P/2012 in COC No.87-P/2012 in: <u>W.P.No.793/2007.</u></p> <p><u>Present:</u> Mr.Fazal Rabi Dard,<br/>Advocate, for the petitioner.</p> <p>Mr.Lal Jan Khattak,<br/>AAG, for the respondents.</p> <p>----</p> <p><u>YAHYA AFRIDI, J.</u> - Shad Muhammad and three others have sought COC proceedings against named respondents for non-compliance of the orders of this Court in W.P. No.793 of 2007 decided on 18.10.2011.</p> <p>Respondents were put to notice and they have asserted in writing that similarly placed, as the present petitioners, have been granted the relief so directed by this Court, while the case of the petitioner could not be processed, as they had not provided their ACRs for the consideration of their relief relating to promotion. As far as the official benefits were concerned, the same have been paid to the petitioners.</p> <p>On the other hand, the learned counsel for the petitioners vehemently argued that as the petitioners were contract employees and by operation of law or their re-instatement, they</p> |

are to be granted "proforma promotion" and there is no requirements for submission of their ACRs.

Learned AAG present in Court disputes the said legal proposition and states that the department is still willing to consider the case of the petitioner, if they provide the requisite ACRs, as was rendered by others, similarly placed.

For the reasons stated herein above, this Court finds that though there may be a legal case made out in favour of the petitioners for seeking appropriate remedy before the lawful legal forum, no Contempt of Court is made out by the actions rendered by the respondents.

In view of the above, the notices were issued, are hereby recalled. The petitioners may invoke their remedy before an appropriate legal forum, if so advised.

This petition is disposed of in the above terms.

Announced  
16.8.2012.

Edy Yakya Afridi - J

sy Joshad Raiser - J

(CERTIFIED TO BE TRUE COPY)

*[Signature]*  
May 23/8/12

Examiner  
Peshawar High Court, Peshawar  
Authorized Under Article  
the Qanun-e-Shahadat Ordinance

*[Signature]*  
Atty

Office 1788

1788

|                                     |         |
|-------------------------------------|---------|
| Date of Presentation of Application | 16/8/12 |
| No of Pages                         | 27      |
| Copying fee                         | 18      |
| Urgent Fee                          |         |
| Total                               | 18      |

Date of Preparation of Copy: 23/8/12  
 Date Given For Delivery: 23/8/12  
 Date of Delivery of Copy: 25/8/12  
 Received By: *[Signature]*

28/8-12  
Approved by J.S. [Signature]

GOVERNMENT OF KHYBER PAKHTUNKHWA,  
LOCAL GOVERNMENT, ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

ORDER

Dated Peshawar the 27<sup>th</sup> August, 2012

No.SO(LG-DE-336/Promotion/2012.- The Competent Authority in consultation with the Departmental Promotion Committee has been pleased to promote the following Progress Officers (BPS-16) LG&RDD to the posts of Assistant Director (BPS-17) in the Local Government and Rural Development Department with immediate effect:-

1. Mr. Shad Muhammad
2. Mr. Abdul Rashid
3. Mr. Salim Raza
4. Mr. Asadullah

2. On their promotion, the terms and conditions of their service on which they were initially appointed will remain the same.

[Signature]  
SECRETARY GOVT. OF KHYBER  
PAKHTUNKHWA, LOCAL GOVT:  
ELECTIONS & RURAL DEV:DEPTT:

Enclt. Even No. and Date.

Copy is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The AGPR Sub-Office, Peshawar.
3. The Director General, LG&RDD, Khyber Pakhtunkhwa, Peshawar.
4. The Director FATA, LG&RDD, Warsak Road, Peshawar.
5. All Assistant Directors, LG&RDD in FATA.
6. All District/Agency Accounts Officers in Khyber Pakhtunkhwa.
7. The Officers concerned.
8. The Manager Government Printing Press, Peshawar.
9. The PS to Secretary, LGE&RDD.
10. Personal Files of the officers concerned.
12. Office order file.

[Signature]  
(SHAFIQ KHAN)  
SECTION OFFICER (ESTAB)

A.T. [Signature]  
promotion but with immediate effect.

GOVERNMENT OF KHYBER PAKHTUNKHWA  
LOCAL GOVERNMENT ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

ORDER

Dated Peshawar the 27<sup>th</sup> August, 2012

NO.SO(LG-I)2-336/Promotion/2012,-- The Competent Authority in consultation with the Departmental Promotion Committee has been pleased to promote the following Progress Officers (BPS-160 LG&Rural Development Department to the posts of Assistant Directors (BPS-17) in the Local Govt. and Rural Development Department with immediate effect:-

1. Mr. Shad Muhammad
3. Mr. Abdul Rashid
4. Mr. Salim Raza
5. Mr. Asadullah

2. On their promotion, the terms and conditions of their service on which they were initially appointed will remain the same.

Sd/-

SECRETARY TO GOVERNMENT OF KHYBER  
PAKHTUNKHWA, LOCAL GOVT.  
ELECTIONS & RURAL DEV: DEPTT:

Endst: Even No. and Date

Copy is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar
2. The AGPR, Sub-Office, Peshawar
3. The Director General , LGRDD, Khyber Pakhtunkhwa, Peshawar
4. The Director FATA, LG&RDD, Warsak Road, Peshawar
5. All the Assistant Directors LGRDD in FATA
6. All District/Agency Accounts Office in Khyber Pakhtunkhwa.
7. The Officers concerned.
8. The Manager, Government Printing Press, Peshawar
9. The PS to Secretary LG&RDD.
10. Personal files of the officers concerned.
11. Office Order file.

Sd/-

(SHAHID KHAN)  
SECTION OFFICER (ESTAB:)



Government of Khyber Pakhtunkhwa  
Local Government, Elections and Rural Development Department

ORDER

Dated Peshawar, the 16<sup>th</sup> May, 2013

No.SO(LG-I)2-336/Promotion/2012.- The Competent Authority in consultation with the Departmental Promotion Committee has been pleased to promote the following Progress Officers (BS-16), Local Government, Elections and Rural Development Department to the post of Assistant Directors (BS-17) in the Local Government, Elections and Rural Development Department with immediate effect:-

- i) Mr.Sheraz Ahmad
- ii) Mr.Fazlullah
- iii) Mr.Shibli Khan

2. On their promotion, the terms and conditions of their service on which they were initially appointed will remain the same.
3. On their promotion, the officers will remain on probation, as per rules.
4. Consequent upon their promotion, postings/transfers of the following officers are hereby ordered with immediate effect:-

| Sl.No. | Name officer    | From         | To   |
|--------|-----------------|--------------|--|
| 1      | Mr.Sheraz Ahmad | On promotion | Assistant Director, LG, E&RDD, Buner to relieve Mr.Israrullah Khan of the additional charge. |
| 2      | Mr.Fazlullah    | On promotion | Assistant Director, LG, E&RDD, Mardan against a vacant post.                                 |
| 3      | Mr.Shibli Khan  | On promotion | Assistant Director, LG, E&RDD, Dir Lower against a vacant post.                              |

SECRETARY TO GOVT.OF KHYBER  
PAKHTUNKHWA, LG&RDD

Endst No.SO(LG-I)2-336/Promotion/2012

Dated Pesh: the 16<sup>th</sup> May, 2013

Copy is forwarded:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, LG, E&RDD, Khyber Pakhtunkhwa, Peshawar.
3. The Director, FATA, LG&RDD, Warsak Road, Peshawar.
4. The Assistant Directors, LG&RDD, Swabi, Buner, Mardan and Dir Lower at Timergara.
5. The District Accounts Officers, Swabi, Buner, Mardan and Dir Lower at Timergara.
6. The Officers concerned.
7. The Manager Government Printing Press, Peshawar.
8. The PS to Secretary, LG, E&RDD.
9. The office order file.

(ZAZ UELAH)  
SECTION OFFICER (ESTAB)

## Statement Showing the date wise Appointment and Promotion of Supervisors, Progress Officers to the Post of Assistant Directors, LG&amp;RDD

| SL. No. | Name of Progress Officer | Method of Recruitment whether by promotion or by initial quota | Date of Appnt./promotion /induction as Progress Officer (BS-16) | Date of Promotion as Asstt. Director (BS-17) |
|---------|--------------------------|--|---|--|
| 1       | Abdul Majceed Zakoori    | B-9 (Promotee)   | 18-12-1985  | 03-08-1992                                   |
| 2       | Khadim Muhammad Hussain  | -do-   | 18-12-1985  | 03-08-1992                                   |
| 3       | Mashallah Khan           | -do-   |   | 03-08-1992                                   |
| 4       | Abdul Ghaffar            | -do-   |   | 03-08-1992                                   |
| 5       | Muhammad Latif           | -do-   |   | 03-08-1992                                   |
| 6       | Shad Muhammad            |  | 22-11-1988  | 27-08-2012                                   |
| 7       | Sheraz Ahmad             |  | 22-11-1988  | 16-05-2013                                   |
| 8       | Abdul Rashid             |  | 22-11-1988  | 27-08-2012                                   |
| 9       | Fazlullah                |  | 22-11-1988  | 16-05-2013                                   |
| 10      | Shibli Khan              |  | 22-11-1988  | 16-05-2013                                   |
| 11      | Hamid Ullah              | B-9 (Promotee)   | 03-08-1992  | 01-11-1995                                   |
| 12      | Aziz-Ur-Rehman           | -do-   | 03-08-1992  | 01-11-1995                                   |

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DIRECTOR  
 OFFICER  
 EIGHT ELECTIONS AND  
 DEVELOPMENT DEPT.

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|    |                    |                |            |            |
|----|--------------------|----------------|------------|------------|
| 13 | Muhammad Farid     | -do-           | 03-08-1992 | 01-11-1995 |
| 14 | Akhtar Munir       | -do-           | 03-08-1992 | 01-11-1995 |
| 15 | Muhammad Jehangir  | Direct         | 26-05-1993 | 26-12-1996 |
| 16 | Qazir Noorul Wahab | -do-           | 26-05-1993 | 26-12-1996 |
| 17 | Ghulam Qadir       | B-9 (Promotee) | 08-10-1996 | 26-06-2000 |
| 18 | Faramoz Khan       | -do-           | 08-10-1996 | 26-06-2000 |
| 19 | Alam Zeb           | -do-           | 08-10-1996 | 26-06-2000 |
| 20 | Noor Elahi         | -do-           | 08-10-1996 | 26-06-2000 |
| 21 | Abdul Qadir        | -do-           | 08-10-1996 | 26-06-2000 |
| 22 | Muhammad Aslam     | -do-           | 08-10-1996 | 26-06-2000 |
| 23 | Maqsood-Ur-Rehman  | -do-           | 08-10-1996 | 26-06-2000 |
| 24 | Qazi Anwar Gul     | -do-           | 08-10-1996 | 26-06-2000 |

Note:- The officers mentioned at Sl.No.6 to 10 were appointed on contract basis on 22-11-1988. their services have been regularized from the date of their initial appointment i.e. 22-11-1988 in implementation of Judgement dated 25-08-2005 of the Supreme Court of Pakistan.

SECTION OFFICER  
LOCAL GOVT  
TURK WHEEL



The appellants were re-instated in service with all back pay and regularized by the LG&RD Department with effect from 1988 i.e. the date of their contract appointment in light of the Court Judgment dated 25.08.2005 (F/E). They were placed in surplus pool as the posts of progress officers alongwith other posts in the office of DG, LGE&RD Department were abolished in 2001 during devolution process till these were revived w.o. from 01.01.2012. The appellants could also not be promoted as Assistant Directors for the aforesaid reason. According to policy (F/J) promotion is always to be notified with immediate effect. Therefore the request of the appellants for ante-dated promotion is not covered under the rules and is liable to rejection by the appellate authority.

13. It may be added that the appellants have been regularized with effect from 22.11.1988 whereas the posts under DG, LG&RD Department were abolished in 2001. Therefore during the period from 1988 to 2001, there is a possibility that regularly appointed progress officers would have been promoted as Assistant Directors. In such a case the appellants will be entitled to regain inter-se-seniority in the higher post and they shall be deemed to have been cleared for promotion alongwith officers junior to them who were considered in the earlier meeting of DPC as per para-7 of circular letter dated 13.04.1987 (F/K). The intervening period can be counted towards increments under FR-26 (c) without arrears.

14. The appellate authority (Chief Secretary) may like to refer to Administrative Department to clarify on para-13 or may dispose off the appeals / representations in light of para-9 read with para-12.

*(Signature)*  
 (Sikandar Qayyum)  
 Secretary Establishment  
 August 20, 2013

Chief Secretary, Khuzer Pakhtunkhwa.

15.

*St. Claisey*

*(Signature)*  
 22/8  
 Chief Secretary  
 Govt of Khuzer Pakhtunkhwa

Secy LG&RD

*(Signature)*

Next Page

C.A.J.C.S. Khuzer Pakhtunkhwa  
 No. 216  
 Date 13/11/2013

of LG&RDD and consider their promotion subject to the availability of vacant positions in the cadre/service group.

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6. That as per Seniority List circulated vide letter dated 13.02.1993 (**Annex:-F**) the total sanctioned posts of Assistant Directors (BPS-17) as stood on 31.12.1992 were 34 and as per the Service Rules notified on 01.12.1991 (**Annex:-G**), the ratio of promotion and direct induction was 30%:70% out of which 24 posts fell in the quota of initial recruitment while 10 posts fell in the promotion quota. At the total 5 Progress Officers (BPS-16) were promoted vide order dated 03.08.1992 (**Annex:-H**) against the available share of 10 posts and thus promotion quota was short of 5 posts against which the appellant could have been promoted had they been in regular service on the basis of his entitlement as declared by the Hon'ble Court subsequently along with consequential back benefits.
7. That inspite of the clear position as explained above still the desired promotion was not granted to the appellant, therefore, COC No.87-P/2012 was filed before the Hon'ble Peshawar High Court, Peshawar which was disposed of vide order dated 16.08.2012 (**Annex:-I**) in view of the statement of the learned Additional Advocate General that the promotion case of the appellant could not be processed as they had not provided ACRs for consideration of the Departmental Promotion Committee, however, it was also observed that the

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appellant and others might invoke their remedy before an appropriate legal forum if so advised.

-58-

8. That thereafter, appellant and others were promoted to the post of Assistant Director (BPS-17) but with immediate effect instead of due dates vide orders dated 27.08.2012 & 16.05.2013 (**Annex:-J**). The appellant and his other colleagues challenged the order *ibid*, to the extent of its immediate operation vide Departmental Appeal dated 10.06.2013 (**Annex:-K**) which was duly processed and culminated in approval by the competent authority of seniority position vide Statement (**Annex:-L**) wherein the appellant and others were shown to have been appointed w.e.f. 22.11.1988 thus the longstanding grievance of the appellant and others was required to be redressed accordingly.
  
9. That in the light of the approval mentioned above for further clarification of the seniority of the appellant and others the Department called for the advice of the Establishment Department vide letter dated 07.11.2013 (**Annex:-M**) upon which the Establishment Department gave its opinion vide letter dated 10.01.2014 (**Annex:-N**) whereafter a Tentative Seniority List was circulated vide letter dated 14.03.2014 (**Annex:-O**) showing the seniority position of the appellant as approved by the competent authority upon which appellant and others submitted the observations but meanwhile the those employees who became juniors as a result of regaining seniority of the appellant and

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others also submitted objections upon the seniority of appellant and others which was allowed vide impugned order dated 22.05.2014 (**Annex:-P**) thereby again the appellant and others were wrongly held to be juniors and thus the earlier promotion with immediate effect of the appellant was restored by setting aside the order of the appellate authority i.e. the Chief Secretary and immediately the impugned Final Seniority List was issued vide letter dated 28.05.2014 (**Annex:-Q**).

10. That being aggrieved by the impugned order dated 22.05.2014 and the impugned Seniority List dated 28.05.2014, appellant preferred a Departmental Representation (**Annex:-R**) thereagainst but the same was not disposed of within the statutory period of 90 days, hence this appeal inter-alia on the following grounds:

**Grounds:**

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned order and the impugned order/Seniority List, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That it is admitted position that appellant was reinstated into service by the Hon'ble Apex Court with all back benefits including promotion, up-gradation etc. falling due during the course of service and in the same spirit the matter was earlier

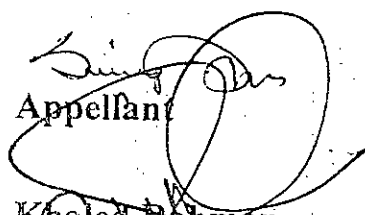
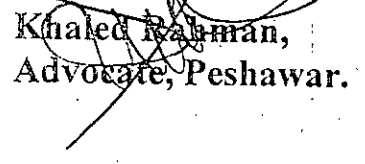
interpreted by the Establishment Department and subsequently agreed to by the competent authority, therefore, the appellant was not only entitled for promotion to the next higher grade but with effect from the date of his entitlement i.e. 22.11.1991 but then by issuing the impugned order and Seniority List the appellant has been deprived of his due right which has resulted in serious miscarriage of justice.

- C. That similarly in the light of the judgment of the Hon'ble Peshawar High Court, Peshawar dated 18.10.2011 the Department vide letter dated 26.09.2011 conceded to the position that the promotion of the appellant had become due w.e.f. 22.11.1991 and the advice on the same subject matter was also called from the Establishment Department which was given in affirmative thereby leaving no room for any suspicion into the matter but inspite of the same when the issue was finalized on the objections of others, the impugned order and the impugned Seniority List was hurriedly issued which has adversely affected the service career of the appellant. Hence the impugned order and the impugned Seniority List are against the law and facts, therefore, are liable to be set aside.
- D. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

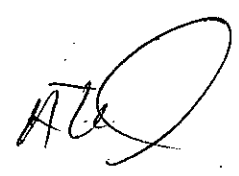


Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

  
Appellant  
  
Khaled Rahman,  
Advocate, Peshawar.

Through

Dated: 21/09/2014





Amir S 62

**Government Of Khyber Pakhtunkhwa  
Local Government Elections & Rural  
Development Department.**

No. SO(LG-I)/4-118/B/2014/Vol-II  
Dated Peshawar, October 27, 2015

To,

1. Mrs. Tahira Yasmeen,  
Acting Director, LG&RDD.
2. Mr. Zahoor, Assistant Director / Planning Officer, Directorate FATA,  
LG&RDD Warsak Road, Peshawar
3. Mr. Muhammad Fahim, Assistant Director / Planning Officers,  
Directorate FATA, LG&RDD Warsak Road, Peshawar
4. Mr. Fajz Muhammad Khan,  
Deputy Director, Directorate General, LG&RDD
5. Mr. Israrullah Khan, Assistant Director, LG&RDD Swabi
6. Mr. Shad Muhammad, Assistant Director, LG&RDD Mansehra
7. Mr. Sheraz Ahmad, Assistant Director, LG&RDD, Buniar
8. Mr. Abudur Rahsid, Assistant Director, LG&RDD, Haripur
9. Mr. Fazlullah, Assistant Director, LG&RDD, Mardan
10. Mr. Shibli Khan, Assistant Director, Directorate General, LG&RDD
11. Mr. Sardarul Mulk, Assistant Director, LG&RDD, Malakand
12. Mr. Akhtar Munir, Assistant Director, LG&RDD, Hangu
13. Mr. Riaz Ahmad, Deputy Director, (Village Council/Neighbourhood  
Council)
14. Mr. Syed Khalid Israr Shah, DD, Local Government Commission
15. Mr. Sajid Gul, Secretary Delimitation Authority.
16. Mr. Said Rahman, Assistant Director, LG&RDD (Now DS (Dev))
17. Mr. Syed Hasnian Kazmi, AD, LG&RDD (Now on Ex-Pakistan Leave)
18. Mr. Muhammad Jehangir, Assistant Director, Directorate FATA,  
LG&RDD, Warsak Road Peshawar
19. Mr. Qazi Noorul Wahab, Assistant Director, LG&RDD, (Now TMO,  
TMA, Nowshera)
20. Mr. Alam Zeb, Assistant Director, Directorate FATA, LG&RDD  
Warsak Road, Peshawar
21. Mr. Salim Raza, Assistant Director, LG&RDD, Charsadda
22. Mr. Asadullah, Assistant Director, LG&RDD, Swat

Subject: **TENTATIVE SENIORITY LIST OF ASSISTANT DIRECTORS, LG&RDD  
AS STOOD ON 30-09-2015.**

I am directed to refer to the subject cited above and to say that as a result of departmental appeals submitted by Abdur Rashid, Shad Muhammad, Sheraz Ahmed, Fazlullah, and Shibli Khan, Assistant Directors against the Final Seniority list of Assistant Directors, LG&RDD circulated vide this department letter of even number dated 14<sup>th</sup> March, 2014, and advice rendered by the Establishment Department, tentative seniority list of Assistant Directors/Planning Officers, LG&RDD is enclosed herewith with the remarks that reservation on the said list, if any, may be conveyed to this department on or before 30/11/2015 for consideration/settlement before final declaration thereof.

Continue page 2

**TENTATIVE SENIORITY LIST OF ASSISTANT DIRECTORS/PLANNING OFFICERS (BPS-17)  
AS STOOD ON LG&RDD ON 30.09.2015**

Total Sanctioned Posts of Assistant Directors (BPS-17):- 36

| S # | Name of Officer     | Educational Qualification | Date of Birth of Domicile | Date of 1 <sup>st</sup> Entry into Service | 1 <sup>st</sup> regular appointment to service/cadre |     |                       | Promotion to present BPS |            | Remarks if any   |
|-----|---------------------|---------------------------|---------------------------|--|--|-----|-----------------------|--------------------------|------------|--|
|     |                     |                           |                           |  | Date   | BPS | Method of recruitment | BPS                      | Date       |  |
| 1   | Mrs. Tahira Yasmin  | M.P.A                     | 1-1-1957<br>D.I.K         | 25.5.1984                                  | 25.5.1984  | 17  | Direct                | 18                       | 17.12.2007 | She has been re-instated in service in implantation of the Judgement of the Khyber Pakhtunkhwa Service Tribunal, Peshawar and services regularized from the date of her initial appointment i.e. 25.5.1984 |
| 2   | Mr. M. Zahoor (PO)  | M.A Eco:                  | 9.5.1961<br>MKD           | 6.11.1988                                  | 6.11.1988  | 17  | -do-                  | 18                       | 25-7-2013  |  |
| 3   | Mr. M. Fahim (PO)   | M.B.A                     | 14.2.1963<br>Swat         | 6.11.1988                                  | 6.11.1988  | 17  | -do-                  | 18                       | -do-       |  |
| 4   | Mr. Faiz Muhammad   | M.A (PS) & Journalism     | 12.4.1962<br>N.W.A        | 8.3.1992                                   | 8.3.1992   | 17  | -do-                  | 18                       | -do-       |  |
| 5   | Mr. Israrullah Khan | M.A Eco:                  | 19.4.1964<br>Swabi        | 3.3.1992                                   | 3.3.1992   | 17  | Direct                | 18                       | -do-       |  |

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*Atty*  
*Muhammad*



|    |                         |             |                         |                                    |                                  |     |          |      |            |      |
|----|-------------------------|-------------|-------------------------|------------------------------------|----------------------------------|-----|----------|------|------------|------|
| 14 | Mr.Khalid Israr Shah    | M.A(P.S)    | 13.10.1966<br>Bannu     | 1.9.1993                           | 5.9.1993                         | 17  | -do-     | 18   | 25-7-2013  |      |
| 15 | Mr.Sajid Gul            | M.Sc(Agri)  | 9.9.1965 Dir<br>Lower   | 5.9.1993                           | 5.9.1993                         | 17  | -do-     | 18   | 25-7-2013  |      |
| 16 | Mr.Said Rehman          | M.A (PS)    | 25.6.1965<br>Mohmand    | 13.9.1993                          | 13.9.1993                        | 17  | -do-     | 18   | 25-7-2013  |      |
| 17 | Syed Hussain<br>Kazmi   | M.Sc (AGRI) | 10.4.1966<br>Manshra    | 7.9.1993                           | 9.9.1993                         | 17  | -do-     | 18   | 25-7-2013  |      |
| 18 | Mr.Muhammad<br>Jehangir | M.Sc        | 17.9.1965<br>Peshawar   | 25.5.1993                          | 25/5/1993<br>Progress<br>Officer | 16  | Promotee | 18   | 26/12/1996 | A.D. |
| 19 | Qazi Noor ul<br>Wahab   | M.Sc        | 16.3.1966<br>Nowshera   | 26.5.1993                          | 26.5.1993<br>Progress<br>Officer | 16  | Promotee | 18   | 26.12.1996 |      |
| 20 | Mr.Alam Zeb             | M.A         | 15.9.1958<br>Swabi      | 23.12.1980                         | 23.12.1980                       | 16  | Promotee | 18   | 26.12.1996 |      |
| 21 | Mr.Salim Raza           | M.A         | 15-12-1964<br>Charsadda | 28-02-2990<br>(Supervisor<br>BS-9) | 28-02-<br>1990                   | B-9 | Promotee | 17   | 27-8-2012  |      |
| 22 | Mr.Asadullah            | B.A         | 28-09-1966<br>Charsadda | -do-                               | -do-                             | B-9 | Promotee | -do- | 27-8-2012  |      |

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Attended  
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To,

The Secretary,  
Local Government, Election & Rural Development Department,  
Government of Khyber Pakhtunkhwa Peshawar.

Subject: OBJECTIONS/RESERVATIONS AGAINST TENTATIVE SENIORITY LIST OF ASSISTANT DIRECTORS LG&RDD AS STOOD ON 30.09.2015

Reference to your letter No.SO(LG-1) 4-118/B/2014/Vol-II Dated 27-10-2015.

Respected Sir,

- 1- It is submitted with great respect in your honor that I Sheraz Ahmad along with others were initially appointed as Progress officer (BPS-16) in LG&RDD way back on 22-11-1988 on contract basis. Subsequently I along with others approached the Peshawar High Court for regularization of our services but could not succeed & in meanwhile our services were terminated in light of the decision of Peshawar High Court. Our request before the Honorable Apex Court also failed & were directed to approach the Provincial Service Tribunal where we also failed to get relief. Consequently we again approached the Apex Court & finally our appeals were allowed vide judgement date 25-08-2005 & were re-instated into service with all back benefits. The Judgment of the Honorable Apex court was implemented by the Department re-instating the appellant & others in service with all back-benefits & regularized with effect from the date of our initial appointment vide Notification dated 10-11-2005 & 16-12-2005.
- That since we the appellant were also entitled for promotion to the next higher grade as a consequence of the judgment of the Apex court which was denied to us by the Department & I along with others filed a Writ Petition NO. 793/2007 in the Honorable Peshawar High Court which was disposed of vide order dated 18-10-2011 with the direction to the Department to decide the matter in accordance with law & as per the observation of Honorable Court given the order viz: Thus the Honorable Court directed for determining as to:-
- When the petitioners become eligible to the next higher grade?
  - What were the rules applicable thereto (service Rules) ?
  - What was ratio of vacancies to be filled by initial recruitment/promotion?
- That the Department in light of the judgement *ibid*, took up the case of the appellant & others and asked for advice of the Establishment Department & Finance Department as

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would be evident from the letter No SO(LG-1) 3-367/PHC/2007 dated 26-11-2011 (Annexur A) wherein Para-5 it has been admitted that "According to service rules notified on 01.12.1991, the length of services for promotion of Progress Officer (BPS-16) to the post of Assistant Director (BPS-17) LG&RDD was 03 years. The initial date of appointment of the petitioner was 22.11.1988 and thus they have completed the required length of service on 22.11.1991 and became eligible for promotion to the post of AD (BPS-17) LG&RDD at that time but they could not be promoted as their status was contract.

4- Reply of the Establishment Department.

Establishment Department vide letter dated 20.12.2011 (Annex:-B) advised that in terms of the employees on contract basis (Regularization of services) Act, 1989 read with the Judgment of the Apex Court announced on 25.08.2005, the services of the appellant stood regularized with effect from the date of their contractual appointments. The Department is therefore, required to determine their seniority viz-a-viz those appointed on regular basis in the defunct Directorate & consider their promotion in the light of the service rules of the posts subject to the availability of vacant positions in the cadre/service group.

- 5- That the department irrespective of the directions/advise of the Apex Court, Peshawar High Court & Establishment Department promoted us on 16-05-2013 with immediate effect instead of due date i.e 22-11-1991 as conceded by the department in its letter at para 5 as Annexur A.
- 6- Aggrieved of the immediate promotion, I along with others (ADs) approached the Chief Secretary Khyber Pakhtunkhwa through an appeal against the immediate promotion instead of 22-11-1991 which was processed by the LG&RDD in a note for orders of the worthy Chief Secretary being competent authority. The case was also processed by Establishment Department in paras 18-20, where the appellants were found entitled to regain their original seniority & para 20 of the note sheet was approved by the Chief Secretary being the competent authority (copy of note sheet Annexur C & D).
- 7- That the Department again sought the advice from Establishment Department vide its letter No SO(LG-1) 3-367/2013 dated 07-11-2013 (Annexur E) which was clarified /replied by the Establishment Department vide its letter No. SOR-IV(ED)/6-1/2013/ dated 10-01-2014 (Annexur F) & in compliance of above, the Department of LG&RDD

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date of their contractual appointments. The Department is therefore, required to determine their seniority

issued Tentative seniority vide letter No.SO(LG-1)3-367/PHC/2014 dated 14-03-2014 as stood on 30-01-2014 showing the regained seniority position of the appellants. But while issuing the order & final seniority dated 22-05-2014 & 28-05-2014 respectively, whereby the appellants were wrongly held to be juniors & thus the earlier promotion with immediate effect of the appellants was restored by setting aside the order of the appellate authority i.e Chief Secretary Government of Khyber Pakhtunkhwa (Annexur C,D&F).

- 8- That being aggrieved by the impugned order Dated 22-05-2014 & seniority list issued on 28-05-2014 we again approached through a Departmental representation to the Chief Secretary Government of Khyber Pakhtunkhwa. But now the Department of LG&RDD has again issued Tentative seniority on 27-10-2015, wherein the appellants have been shown to have regained their original seniority from S.No 6 to 10. It is pertinent to mention that both the Tentative seniority issued on 14-03-2014 & 27-10-2015 on the acceptance of our departmental appeals/representations by the worthy Chief Secretary Khyber Pakhtunkhwa (appellate authority) and advice rendered by the Establishment Department vide its letter dated 10/01/2014(Annexur F) stating therein, the officers mentioned at S.No 6 to 10 have regained their seniority. (Annexur G)
- 9- In view of the above factual submission, it is therefore humbly prayed that our present tentative seniority may kindly be finalized by making correction from our due date of eligibility of our seniority/promotion effective from 22-11-1991 as conceded by the LG&RDD in its letter at para 5 dated 26-11-2011 (Annexur A) & in light of the letter of Establishment Department Dated 10-01-2015 (Annexur F) please.

I wish to be heard in person please.

Dated: 27-11-2015

Yours faithfully,

(Sheraz Ahmad)

Assistant Director

LG&RDD Buner

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date of their contractual appointments. The Department is hereby

M/S/2015



Government Of Khyber Pakhtunkhwa,  
Local Government, Elections & Rural Development Department

NOTIFICATION

Dated Peshawar, the 22<sup>nd</sup> August, 2017

No. SO(LG-I)4-118/ADS/S.LIST/2017/VOL-II/ In pursuance of Section-8 of the Khyber Pakhtunkhwa, Civil Servants Act, 1973 and approval of the Competent Authority, final seniority list of Assistant Directors, Local Government, Elections & Rural Development Department Khyber Pakhtunkhwa as it stood on 30.12.2016 is notified as under:-

FINAL SENIORITY LIST OF ASSISTANT DIRECTORS (BPS-17) LG&RDD AS STOOD ON 30.12.2016

Total sanctioned posts of Assistant Directors (BPS-17):- 41

| S# | Name of officer        | Edu Quall             | Domicile | Date of Birth | Date of 1 <sup>st</sup> Entry into Service | Regular appointment to service / cadre |     |                       | Promotion to present BPS |            | Remarks if any |
|----|------------------------|-----------------------|----------|---------------|--|--|-----|-----------------------|--------------------------|------------|----------------|
|    |                        |                       |          |               |  | Date                                   | BPS | Method of recruitment | BPS                      | Date       |                |
|    |                        |                       |          |               |  |  |     |                       |                          |            |                |
|    |                        |                       |          |               |  |  |     |                       |                          |            |                |
| 1  | M. Muhammad Zahoor     | M.A Eco:              | MKD      | 09.05.1961    | 06.11.1988                                 | 06.11.1988                             | 17  | Direct                | 18                       | 25.07.2013 |                |
|    | Muhammad Fahim         | M.B.A                 | Swat     | 14.02.1963    | 06.11.1988                                 | 06.11.1988                             | 17  | -do-                  | 18                       | -do-       |                |
| 3  | Mr. Faiz Muhammad Khan | M.A (PS) & Journalism | N.W.A    | 12.04.1962    | 08.03.1992                                 | 08.03.1992                             | 17  | -do-                  | 18                       | -do-       |                |

SECTION OFFICER (ESTAB)

|    |                          |                   |           |            |            |                                   |    |        |                              |            |  |
|----|--------------------------|-------------------|-----------|------------|------------|-----------------------------------|----|--------|------------------------------|------------|--|
| 4  | Mr. Israrullah Khan      | M.A Eco:          | Swabi     | 19.04.1964 | 03.03.1992 | 03.03.1992                        | 17 | -do-   | 18<br>(personally up-graded) | -do-       |  |
| 5  | Mr. Shad Munawwar        | M.Sc              | Mansehra  | 03.04.1958 | 22.11.1988 | 22.11.1988<br>as Progress Officer | 16 | -do-   |                              | 27.08.2012 | Consequent upon acceptance of their departmental appeals / representations by the appellate authority, the officers mentioned at Sl. No.6 to 10 have regained their seniority. |
| 6  | Mr. Ahmad Sheraz         | M.A (P. Science)  | Swabi     | 15.09.1960 | 22.11.1988 | 22.11.1988<br>as Progress Officer | 16 | -do-   | 17                           | 16.05.2013 | -do-   |
| 7  | Mr. Abdul Rashid         | M.A               | Haripur   | 01.01.1961 | 22.11.1988 | 22.11.1988<br>as Progress Officer | 16 | -do-   | 17                           | 27.08.2012 | -do-   |
| 8  | Mr. Fazlullah            | M.A (Sociology)   | Swabi     | 08-10-1962 | 22.11.1988 | 22.11.1988<br>as Progress Officer | 16 | -do-   | 17                           | 16-05-2013 | -do-   |
| 9  | Mr. Shibli Khan          | M.Sc (Hons: Agri) | Swabi     | 01.05.1965 | 22.11.1988 | 22.11.1988<br>as Progress Officer | 16 | -do-   | 17                           | 16.05.2013 | -do-   |
| 10 | Mr. Sardar-Ul-Mulk       | M.Sc (Hons)       | MKD       | 01.01.1966 | 07.09.1993 | 07.09.1993                        | 17 | Direct | 18<br>(personally up-graded) | 25.07.2013 |  |
| 11 | Mr. Akhtar Munir Umerzai | M.Sc (Agri)       | Charsadda | 01.04.1961 | 09.09.1993 | 09.09.1993                        | 17 | -do-   | 18<br>(personally up-graded) | 25.07.2013 |  |

**SECTION OFFICER (ESTAB)**  
**Local Govt. Elections & Rural**  
**Development Department KP**

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|    |                       |                  |                |            |                                |            |      |          |                              |            |  |
|----|-----------------------|------------------|----------------|------------|--------------------------------|------------|------|----------|------------------------------|------------|--|
| 12 | Mr. Riaz Ahmad        | M.Sc (Hon: Agri) | Swabi          | 06.05.1966 | 07.09.1993                     | 07.09.1993 | 17   | -do-     | 18<br>(personally up-graded) | 25.07.2013 |  |
| 13 | Mr. Khalid Isfar Shah | M.A (P.Science)  | Bannu          | 13.10.1966 | 01.09.1993                     | 05.09.1993 | 17   | -do-     | 18<br>(personally up-graded) | 25.07.2013 |  |
| 14 | Mr. Sajid Gul         | M.S(Agri)        | Dir Lower      | 09.05.1965 | 05.09.1993                     | 05.09.1993 | 17   | -do-     | 18<br>(personally up-graded) | 25.07.2013 |  |
| 15 | Mr. Said Rehman       | M.A (P.S)        | Mohmand Agency | 25.06.1965 | 13.09.1993                     | 13.09.1993 | 17   | -do-     | 18<br>(personally up-graded) | 25.07.2013 |  |
| 16 | Syed Husnain Kazmi    | M.Sc (Agri)      | Manshra        | 10.04.1966 | 07.09.1993                     | 09.09.1993 | 17   | -do-     | 18<br>(personally up-graded) | 25.07.2013 |  |
| 17 | Mr. Muhammad Jehangir | M.Sc             | Peshawar       | 17.09.1965 | 25.05.1993                     | 25.05.1993 | 16   | Promotee | 18<br>(personally up-graded) | 26.12.1996 |  |
| 18 | Qazi Noor-Ul-Wahab    | M.Sc             | Nowshera       | 16.03.1996 | 26.05.1993                     | 26.05.1993 | 16   | -do-     | 18<br>(personally up-graded) | 26.12.1996 |  |
| 19 | Mr. Alam Zeb          | M.A              | Swabi          | 15.09.1958 | 23.12.1980                     | 23.12.1980 | 16   | -do-     | 18<br>(personally up-graded) | 26.12.1986 |  |
| 20 | Mr. Salim Raza        | M.A              | Charsadda      | 15.12.1964 | 28.02.1990<br>(Supervisor B-9) | 28.02.1990 | BS-9 | -do-     | 17                           | 27.08.2012 |  |
| 21 | Mr. Asadullah         | B.A              | Charsadda      | 28.09.1966 | -do-                           | -do-       | BS-9 | -do-     | 17                           | 27.08.2012 |  |

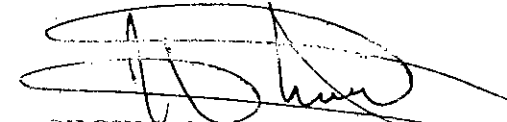
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SECTION OFFICER (ESTD)  
Local Govt. Elections & Rural  
Development Department KP

SECRETARY TO GOVERNMENT OF KP  
LOCAL GOVT. ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

Dated Peshawar, the 22<sup>nd</sup> August, 2017

1. The Director General, LG&RDD Khyber Pakhtunkhwa, Peshawar.
2. The Director FATA, LG&RDD Warsak Road Peshawar.
3. All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa
4. The Manager Government Printing Press Peshawar. He is requested to provide 100 printed copies of the seniority list.
5. The PS to Secretary LG,E&RD Department Peshawar.
6. The Office order file.

  
SECTION OFFICER (ESTAB)  
Phone # 091-9213224



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25/9/17

The Worthy Chief Secretary  
Govt. of Khyber Pakhtunkhwa  
Civil Secretariat, Peshawar.

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Annex "V"

**Subject: Departmental Representation against the Notification dated 22.08.2017 whereby although appellant was given seniority from a retrospective date but the antedation of promotion w.e.f. 22.11.1991 with back benefits was not allowed.**

Respected Sir,

1. That appellant and others were initially appointed as Progress Officers (BPS-16) in the then Local Government & Rural Development Department way back in the year 1988 on contract basis. Subsequently, they approached the Hon'ble Peshawar High Court Peshawar for regularization of their services but could not succeed and meanwhile their services were terminated. Their request before the Hon'ble Apex Court also failed and they were directed to approach the Provincial Service Tribunal. On their approach to the Service Tribunal their appeals were dismissed and consequently they again approached the Apex Court and finally their appeals allowed vide Judgment dated 25.08.2005 and appellant and others were reinstated into service *with all back benefits*.
2. That the judgment of the Hon'ble Apex Court was implemented by the Department by reinstating the appellant and others in service with all back benefits and regularized them with effect from the date of their initial appointment vide notification dated 10.11.2005 and 16.12.2005.
3. That since the appellant was also entitled for promotion to the higher grade as a consequence of the Judgment of the Hon'ble Apex Court which was denied to him, therefore, appellant and others filed writ Petition No.793/2007 in the Hon'ble Peshawar High Court Peshawar which was disposed of with certain observation vide order dated 18.10.2011 with direction to the Department to decide the matter in accordance with law.
4. That the Department, in the light of the Judgment *ibid*, took up the case of the appellant and others and asked for the advise of the Establishment Department and Finance Department as would be evident from the letter dated 26.11.2011 by answering the queries hinted to by the hon'ble Peshawar High Court, Peshawar in lucid manner. The Establishment Department vide letter dated 20.12.2011 advised that *in terms of the employees on contract basis (Regulation of services) Act, 1989 read with the Judgment of the Apex Court announced on 25.08.2005, the services of the appellant stood regularized with effect from the date of their contractual appointments. The Department is therefore, required to determine their seniority viz-a-viz those appointed on regular basis in the defunct Directorate and consider their promotion in the light of the service rules of their posts subject to the availability of vacant positions in the cadre/service group.*
5. That later on, appellant and others were promoted to the post of Assistant Director (BPS-17) but with immediate effect instead of due date vide order dated 16.05.2013. The appellant and his other colleagues challenged the order *ibid*, to the extent of its immediate operation vide Departmental Appeal dated 10.06.2013 which was duly processed and culminated in approval by the competent authority vide statement wherein the appellant and others were shown to have been appointed w.e.f. 22.11.1988 thus the longstanding grievance of the appellant and others stood redressed.
6. That in the light of the approval mentioned above for further clarification of the seniority of the appellant and others the Department called for the advise of the Establishment Department vide letter dated 16.05.2013 upon which the Establishment Department gave


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its opinion vide letter dated 10.01.2014 whereafter a Tentative Seniority List was circulated vide letter dated 14.03.2014 showing the seniority position of the appellant as approved by the competent authority upon which appellant and others submitted the observations but meanwhile the those employees who became juniors as a result of regaining seniority of the appellant and others also submitted objections upon the seniority of appellant and others which was allowed vide order dated 22.05.2014 thereby again the appellant and others were wrongly held to be juniors and thus the earlier promotion with immediate effect of the appellant was restored by setting aside the order of the appellate authority i.e. the Chief Secretary and immediately the final Seniority List was issued vide letter dated 28.05.2014.

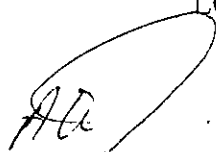
7. That after the order dated 22.05.2014 *ibid*, the final Seniority List of Assistant Directors/Planning Officers (BPS-17) was issued vide letter dated 28.05.2014 which was called in question by the appellant and others through departmental appeal in the first instance and then through Service Appeals before the Khyber Pakhtunkhwa Service Tribunal. During pendency of the appeals, the Representation was once again accepted and Tentative Seniority List was issued on 27.10.2015 wherein seniority positions were again restored however the date of Promotion was again shown as 16.05.2013 and 27.08.2012 instead of 22.11.1991, accordingly observations were raised on the Tentative Seniority List.
8. That the appellant and others withdrew their Service Appeals as the departmental appeal of the appellant was accepted, however, neither the final Seniority List was issued nor other back benefits were allowed inspite of acceptance of their appeal which again constrained the appellant and others to file writ petition No.1031-P/2017 before the Peshawar High Court, Peshawar which is still pending, however, now the impugned Notification has been issued whereby again partially the grievances of the appellant and others have been redressed by granting them seniority but other back benefits including antedation of promotion has not been allowed.
9. That juniors to the appellant have been allowed personal upgradation to BPS-18 vide impugned Notification/Seniority List at Serial No.10 to 19 w.e.f. 2011 and the appellant and his other colleagues are also entitled for such personal upgradation w.e.f. the date juniors to the appellant were allowed such upgradation.
10. That the appellant and his other colleagues are not only entitled for seniority from the due date i.e. 22.11.1991 but also entitled to other benefits including antedation of promotion in the light of the Judgment of the Hon'ble Supreme Court of Pakistan as well as the order of the Hon'ble Peshawar High Court, Peshawar. Moreover, they are also entitled for personal upgradation as mentioned above.

It is, therefore, humbly requested that on acceptance of this departmental Representation, the appellant Promotion as Assistant Director (BPS-17) may be antedated to 22.11.1991 with all consequential back benefits and they may also be allowed personal upgradation to BPS-18 with effect from the date juniors were allowed such upgradation with further consequential back benefits.

Yours faithfully

  
Shibli Khan,  
Assistant Director  
LG&RDD, Swabi

Dated: 25/09/2017



WAKALAT NAMA

IN THE COURT OF KPK Service Tribunal Peshawar

Shibli Khan

Appellant(s)/Petitioner(s)

VERSUS

We Govt and address

Respondent(s)

I/We \_\_\_\_\_ do hereby appoint  
**Mr. Khaled Rehman**, Advocate, Supreme Court in the above mentioned  
case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this \_\_\_\_\_

Attested & Accepted by

**Khaled Rehman**,  
Advocate,  
Supreme Court of Pakistan

3-D, Haroon Mansion  
Khyber Bazar, Peshawar  
Off: Tel:-091-2592458

Shibli Khan  
Signature of Executants

Shibli Khan

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No: \_\_\_\_\_ / 2018

Shibli Khan Versus Government of KPK etc

WRITTEN STATEMENT / REPLY ON BEHALF OF IMPEADED  
RESPONDENT NO. 4.

Respectfully Sheweth,

Written Statement / Reply, on behalf of Impleaded Respondent No. 3, is as under:

Preliminary Objections:

- A. That, Appellant has got no cause of action to institute the present Appeal before this Honourable Tribunal.
- B. That Appellant has got no locus-standi to institute the present Service Appeal.
- C. That, the Appeal of the Appellant is not maintainable in its present form.
- D. That, the Appellant has been estopped by his own conduct to file the instant Appeal.
- E. That, Appellant has not come to the Tribunal with clean hands and has suppressed material facts from this Honourable Tribunal.
- F. That, Appeal of the Appellant is time barred.

- G. That, Appellant born in the cadre of the Added Respondent in the year 2011 hence could not claim seniority / promotion over and above the Answering Respondent.
- H. That, Promotion is not a vested right and no one could be promoted to a post or cadre without observing the codal formalities.
- I. That, no one can claim promotion from retrospective effect and that too on his own whim and wish.
- J. That, mere completion of minimum tenure does not mean that an incumbent has become entitle to be granted promotion.

**REPLY TO THE FACTS:**

- 1) Pertains to record and Judgments of different forums hence need no reply from the Answering Respondent.
- 2) Pertain to record.
- 3) Correct to the extent of reproduced Paragraph of the Judgment however the case of the Appellant was simply sent to the Department for decision.
- 4) In response to Para 4 it is submitted that no right could be claimed from inter-departmental communications of Parent Department with other Departments. It is added with respect that the Parent Department has categorically stated in its communications that there are / were no vacant posts of Assistant Directors in the Department, moreover the Department cannot presumptively promote the Appellant from the date of mere completion of 3 years tenure rather for the purpose of promotion there are other number of hurdles which cannot be waived off on whims and wishes of individuals.

- 5) Incorrect as per above Para.
- 6) Incorrect. as per above Para.
- 7) Correct to the extent of COC No. 87-P / 2012 decided on 16.08.2012.
- 8) Incorrect, hence denied. The Order dated 16.05.2013 was just and legal however the Appellant while feeling aggrieved from the same, filed Departmental Representation before the Competent Authority upon which no Final Order was passed. It was mandatory and incumbent upon the Appellant to have filed Service Appeal after lapse of 90 days period. Since the Appellant had not filed any Appeal after 90 days period against the Order dated 16.05.2013, therefore, the chapter of promotion has become past and closed transaction for the Appellant and the same cannot be reagitated in any manner before any forum.
- 9) Para 09 of the Appeal is vague and ambiguous. Actual position is that when Appellant failed to call in question the Order dated 16.05.2013 before any Competent Forum he converted his stance from acquiring retrospective promotion to Seniority. Tentative Seniority List dated 14.03.2014 in which wrong position was allotted to the Appellant was objected by other incumbents in consequence of which Tentative Seniority List dated 14.03.2014 was corrected vide Order dated 22.05.2014 and subsequent Seniority List dated 28.05.2014.
- 10) Correct to the extent of filing of Service Appeal before this Honourable Tribunal. It is added that the Service Appeal was not decided on merits rather the same was withdrawn. Rest of the Para regarding the date of promotion is not correct. The Appellant has himself left the fight of promotion from retrospective effect by not challenging the Order dated 16.05.2013 before any Legal Forum. Instead of

challenging the Promotion Order dated 16.05.2013, the Appellant chose to run and fight for the seniority which cannot be given to him, legally and if for the sake of Arguments, seniority is allotted to him, even then he cannot claim promotion over and above the officers who are higher in scale and grade, copy of the Judgment of Honourable Service Tribunal in Service Appeal No. 1182 / 2017 dated 03.01.2019 is attached as Annexure A.

- 11) Incorrect. Appellant never challenged the Order dated 16.05.2013 before any legal forum hence instant Appeal is time barred. It is important to mention here that the Seniority List dated 22.08.2017 was challenged by the Answering Respondent before this Honourable Court which has been decided in favour of the Appellant thus the very base of acquiring the retrospectivity of Promotion Order dated 16.05.2013 has been set at naught in consequence of which instant Appeal has become infructuous.

REPLY TO THE GROUNDS:

- A. Incorrect: The Seniority List on the basis of which the Appellant was claiming the retrospective promotion has been set aside by this Honourable Tribunal hence instant Appeal cannot give any fruit to the Appellant. Promotion and Seniority are two distinct terms and conditions of service which cannot be claimed by leaving one.
- B. Incorrect, back benefits of the post have already been paid to the Appellant. Promotion and upgradation are consequential benefits which term is not mentioned in the Judgment of Supreme Court of Pakistan. Even otherwise for the purpose of promotion of an incumbent, there are many conditions which are to be fulfilled including ACR, eligibility and fitness etc, moreover no one can claim promotion on his own whims and wishes and on the basis of surmises.

- C. Incorrect and misleading one hence denied. The Department never conceded to give promotion to the Appellant from 1991. Probably, Appellant's conferment of claim of any concession by the Department, is based on inter-departmental communications and covering letters which cannot be treated as any supporting order for the Appellant.
- D. Incorrect. the already granted Seniority has already been taken away in pursuance of Order of this Honourable Tribunal dated 03.01.2019, copy of the same is already attached.
- E. Needs no reply however it is added that the grounds not specifically agitated in the memo of Appeal, cannot be raised later on.

It is, therefore, requested that Appeal be dismissed with cost.

  
Added Respondent

Through:

BILAL AHMAD KAKAIZAI  
(Advocate, Peshawar)



BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No: \_\_\_\_\_ / 2018

SHIBLI KHAN

Versus

*Government of KPK etc*

AFFIDAVIT

I, AKHTAR MUNIR, Deputy Director, BPS-18, LG&RDD, Mardan, Applicant, do hereby on oath affirm and declare that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

Deponent.

Identified by:

BILAL AHMAD KAKAIZAI  
(Advocate, Peshawar)

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

**Service Appeal No.187 /2018**

Shibli Khan, AD, LG&RDD

..... Appellant

**Versus**

1<sup>st</sup> Chief Secretary, Khyber Pakhtunkhwa

2<sup>nd</sup> Secretary, Establishment Department

3<sup>rd</sup> Secretary, LG&RDD

..... Respondents

**JOINT PARA-WISE COMMENTS OF RESPONDENTS**

**Respectfully Sheweth,**

**Preliminary objections:-**

- i. The appellant has got no cause of action to institute the instant appeal;
- ii. The appellant has not come to the Hon'ble Tribunal with clean hands;
- iii. The appellant has not sought departmental remedy before invoking jurisdiction of this Hon'ble Tribunal;
- iv. That appellant has concealed material facts of the case;
- v. The appellant has not impleaded the necessary parties as respondents i.e Secretary Finance and DG, LG&RDD;
- vi. The appeal is not maintainable in its present form;
- vii. The appeal is time barred;
- viii. That the appeal is bad for non-joinder and mis-joinder;
- ix. The appeal is liable to be dismissed.
- x. That this Hon'ble Tribunal has got no jurisdiction.

**On Facts**

Para No.1

Incorrect. The appellant as well as others were purely contract / project employees appointed under the scheme "Strengthening of LG&RDD" in the Local Government, Elections and Rural Development Department during the year, 1988. Pay etc of the appellant and other such employees was met out of 2% contingencies of the development funds. The Khyber Pakhtunkhwa

Employees on Contract Basis (Regularization of Services) Act, 1989 (Act No.VIII of 1989) was not applicable in the appellant case as posts against which the appellant were appointed not created on revenue side. However, Judgement dated 25-08-2005 of the Supreme Court of Pakistan has already been implemented in letter and spirit by re-instating the petitioners and other such employees in service.

Para No.2

As replied in Para-1 above.

Para No.3

Incorrect. Decision of the Supreme Court of Pakistan in the appellant's case as well as others has been implemented in letter and spirit and all benefits have been given to the re-instated employees including the appellant. It is clarified that the Directorate General, LG&RDD and its allied offices in the settled districts where the re-instated employees were appointed on contract basis were abolished with effect from 01-07-2001 in devolution process. There were no regular posts in the department against which adjustment / posting of the appellant and others was to be considered. Therefore, the Department was left with no other option but to create posts in the surplus pool in LG&RDD to implement judgement of the Supreme Court of Pakistan. This also entitled the incumbents to draw their salaries from the date of their services were terminated.

The surplus staff was either adjusted in the Planning and Development Department, C&W Department as well as in the District Governments. The appellant and his other four colleagues were placed in the Surplus Pool for the purpose of drawl of their salaries as per surplus pool policy of the Provincial Government in vogue. However, one Mr.Razaullah Khan who was senior amongst the incumbents was adjusted against the vacant post of Industrial Development Officer (BPS-16) in Industries

Department on 24-01-2008 in accordance with the policy governing adjustment of surplus staff against vacant posts.

The Directorate General, LG&RDD alongwith posts was revived during 2012. The appellant and his other colleagues were adjusted against the vacant posts of Progress Officers(BS-16) in LG&RDD. However, on creation of the posts of Assistant Directors (BS-17), the appellant and other were promoted to the posts of Assistant Directors (BS-17), LG&RDD which were lying vacant under promotion quota strictly in accordance with the Promotion Policy of the Provincial Government in vogue with immediate effect.

Para-4

As replied in Para-3 above.

Para-5

Incorrect as laid. According to the policy governing promotion of employees, promotion always take effect with immediate effect. A copy of Promotion Policy of the Provincial Government is at Annexure-A.

Para-6

As replied in Para-3.

Para-7

Incorrect. On availability of ACRs of the appellants, they were promoted to the post of Assistant Directors (BS-17) in LG&RDD with effect from 16-05-2013 and 27-08-2012 with approval of the Competent Authority.

Para-8

Incorrect. The appellant and others have been promoted to the post of Assistant Directors(BS-17) in accordance with the Promotion Policy of the Provincial Government in vogue. The appellant and his other colleagues were placed in the seniority list as approved by the Competent Authority (**Annex-B**). However, Mr. Akhtar Munir, Assistant Director, LG&RDD filed Service Appeal No.1182/2017 in this Hon'ble Service Tribunal challenging the seniority position of the appellant and four others. The Service Tribunal accepted the appeal of

Mr. Akhtar Munir and placed him senior to the private respondents No.5 to 8 i.e. Shad Muhammad, Shehraz Ahmad, Fazlullah, Abdur Rashid and Shibli Khan vide Judgement dated 03-01-2019 (Annex:C).

Para-9 As replied in para-8 above.

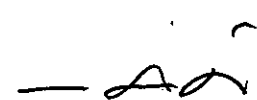
Para-10 As replied in Para-8 above.

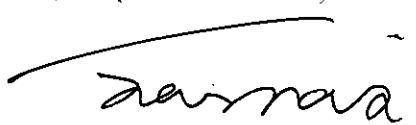
Para-11 Incorrect. The benefits as per entitlement of the appellant under the rules regulating his services have been availed by him. However, appeal of the appellant is not maintainable on the following grounds.

**On Grounds:-**

- A. Incorrect. The appellant has been treated strictly in accordance with rules regulating his services. More-over, promotion is always notified with immediate effect.
- B. As replied in Para-8 above.
- C. As replied in Para-8 above.
- D. As replied in Para-A above.
- E. Additional grounds if, produce by the appellant will be replied at the time of arguments.

It is requested that the Hon'ble Service Tribunal may graciously dismiss this service appeal of the appellant with cost.

  
1 Secretary, Establishment  
(Respondent No.2)

  
2 Secretary, L.G,E&RDI  
(Respondent No.3)

## Promotion Policy

In order to consolidate the existing Promotion Policy, which is embodied in several circular letters issued in piecemeal from time to time, and to facilitate the line departments at every level in prompt processing of promotion cases of Provincial civil servants, it has been decided to issue the "Khyber Pakhtunkhwa Civil Servants Promotion Policy, 2009" duly approved by the competent authority, for information and compliance by all concerned. This Policy will apply to promotions of all civil servants holding appointment on regular basis and will come into effect immediately. The Policy consists of the provisions given hereunder:-

### I. Length of service.

(a) Minimum length of service for promotion to posts in various basic scales will be as under:

|                  |                                    |
|------------------|------------------------------------|
| Basic Scale 18 : | 5 years' service in BS-17          |
| Basic Scale 19:  | 12 years' service in BS-17 & above |
| Basic Scale 20:  | 17 years' service in BS-17 & above |

No proposal for promotion shall be entertained unless the condition of the prescribed length of service is fulfilled.

(b) Service in the lower pay scales for promotion to BP-18 shall be counted as follows:

- (i) Half of the service in BS-16 and one fourth in Basic Scales lower than 16, if any, shall be counted as service in Basic Scale 17.
- (ii) Where initial recruitment takes place in Basic Scale 18 and 19, the length of service prescribed for promotion to higher Basic Scales shall be reduced as indicated below:

|                |   |
|----------------|---|
| Basic Scale 19 | 7 years' service in BS-18   |
| Basic Scale 20 | 10 years' service in BS-18 & above, or 3 years' service in BS-19. |

### II. LINKING OF PROMOTION WITH TRAINING:

(a) Successful completion of the following trainings is mandatory for promotions of officers of the Provincial Civil Service / Provincial Management Service to various Basic Scales:

- Mid-Career Management Course at National Institute of Management (NIM) for promotion to BS-19
- Senior Management Course at National Management College, Lahore for promotion to BS-20
- National Management Course at National Management College, Lahore for promotion to BS-21

(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing Promotion Policy.

(c) The qualifying thresholds of quantification of PERs for nomination to these trainings are as under:

|      |    |
|------|----|
| MCMC | 60 |
| SMC  | 70 |
| NMC  | 75 |

(d) There will be no exemptions from mandatory trainings. An officer may, however, request for temporary exemption in a particular moment in time but grant of such exemption would be at the discretion of the competent authority. No such request with regard to an officer would be made by the Government Departments concerned.

(e) Three officers shall be nominated for each slot of promotion on the basis of their seniority. Those unwilling to attend will be dropped at their own expense without prejudice to the rights of others and without thwarting or minimizing the chance of improving the quality of service.

(f) Officers failing to undergo mandatory training in spite of two time nominations for training shall stand superseded if such failure was not for the reasons beyond the control of the officers concerned.

Development of Comprehensive Efficiency Index (CEI) for promotion:

(a) The Comprehensive Efficiency Index to be maintained for the purpose of promotion is clarified as under:

(i) The minimum of aggregate marks for promotion to various grades shall be as follows:

| Basic Scale | Aggregate marks of Efficiency Index |
|-------------|-------------------------------------|
| 18          | 50                                  |
| 19          | 60                                  |
| 20          | 70                                  |
| 21          | 75                                  |

Regular BPS-18 officers for promotion to BS-19

- a) PERs will now have weightage of 70 marks.
  - b) MCMC is assigned 15 marks.
  - c) Evaluation of DSB will have 15 marks. The DSB will, however, continue to determine the fitness of a person for promotion from bs-18 to 19 on non-selection basis.
  - d) Exemptions from mandatory training course of MCMC will be evaluated by DSB against 30 marks (inclusive of 15 marks in lieu of training).
- (ii) A panel of two senior most officers shall be placed before the Provincial Selection Board for each vacancy in respect of promotion to BS-18 & 19. Similarly, a panel of three senior most officers shall be submitted to the Provincial Selection Board for each position in respect of promotion to BS-20 and 21 and the officer with the requisite score on the Efficiency Index shall be recommended for promotion.
- (iii) The senior most officer(s) on the panel securing the requisite threshold of the Efficiency Index shall be recommended by the Provincial Selection Board for promotion unless otherwise

deferred. In case of failure to attain the requisite threshold, he (she)/they shall be superseded and the next officer on the panel shall be considered for promotion.

(b) Marks for quantification of PERs, Training Evaluation Reports and Provincial Selection Board evaluation shall be assigned as under:-

| S.# | Factor   | Marks for promotion to BS-18 & 19 | Marks for promotion to BS-20 & 21 |
|-----|--|-----------------------------------|-----------------------------------|
| 1.  | Quantification of PERs relating to present grade and previous grade(s) @ 60% : 40% | 100%                              | 70%                               |
| 2.  | Training Evaluation Reports as explained hereafter.                                | --                                | 15%                               |
| 3.  | Evaluation by PSB  | --                                | 15%                               |
|     | Total  | 100%                              | 100%                              |

(c) A total of 15 marks shall be allocated to the Training Evaluation Reports (Nine marks @ 60% for the training in the existing BPS and Six marks @ 40% in the preceding BS). Evaluation of the reports from the Training Institutions shall be worked out as under:-

(i) It shall be on the basis of Grade Percentage already awarded by the National School of Public Policy (National Management College and Senior Management Wing) and its allied Training Institutions as provided in their reports.

(ii) Previous reports of old Pakistan Administrative Staff College and old NIPAs where no such percentage has been awarded, points shall be worked out on the basis of weighted average of the percentage range of grades followed by these Institutions as reflected in table-A below:

TABLE-A Old PASC & NIPAs

| Category         | Range   | Weighted Average | Points of PASC @ 60%=9 | Points of NIPAs @ 40%=6 |
|------------------|---------|------------------|------------------------|-------------------------|
| A. Outstanding   | 91-100% | 95.5%            | 8.60                   | 5.73                    |
| B. Very Good     | 80-90%  | 85%              | 7.65                   | 5.10                    |
| C. Good          | 66-79%  | 72.5%            | 6.52                   | 4.35                    |
| D. Average       | 50-65%  | 57.5%            | 5.17                   | 3.45                    |
| E. Below Average | 35-49%  | 42%              | 3.78                   | 2.52                    |

(iii) Grades from National Defence University will be computed according to the weighted average based on the Grading Key for the range provided by the NDU as reflected in Table-B below:

TABLE-B NATIONAL DEFENCE UNIVERSITY

| Category  | Range         | Weighted Average | Points @ 60%=9 |
|-----------|---------------|------------------|----------------|
| A         | Outstanding   | 76-100%          | 88%            |
| B-Plus    | Very Good     | 66-75.99%        | 71%            |
| B-High    | Good          | 61-65.99%        | 63.5%          |
| B-Average | Average       | 56-60.99%        | 58.5%          |
| B-Low     | Below Average | 51-55.99%        | 53.5%          |
| B-Minus   | Below Average | 46-50.99%        | 48.5%          |
| C         | Below Average | 40-45.99%        | 43%            |
| F         | Below Average | 35-39.99%        | 37.5%          |



(d) The officers who have been granted exemption from mandatory training having attained the age of 56 years or completed mandatory period of serving in a Training Institution upto 27-12-2005, may be awarded marks on notional basis for the training factor (for which he/she was exempted) in proportion to the marks obtained by them in the PERs.

\*W.e.f 20-3-2009, Civil officers in BS-19 and BS-20 who attain the age of 58 years or above on the scheduled date for commencement of the following training courses will be exempted from the said training courses for promotion to BS-20 and BS-21 posts respectively.

- I. Senior Management Course (SMC)
- II. National Management Course (NMC)
- III. National Defence Course (NDC)

\*No. SOR-VI/E&A/1-6/2008/Vol-VI Dt: 30-6-2010.

(e) Status quo shall be maintained in respect of officers of special cadres such as teachers, doctors, professors, research scholars and incumbents of technical posts for promotion within their own line of specialty. However, for calculation of their CEI, 70% marks shall be assigned to the quantified score of PERs and 30% marks shall be at the disposal of the PSB.

(f) For promotion against selection posts, the officer on the panel securing maximum marks will be recommended for promotion. Thirty marks placed at the disposal of the Provincial Selection Board in such cases shall be awarded for technical qualification, experience and accomplishments (research publications relevant to the field of specialism).

(g) Since three of the aspects of performance i.e. moral integrity, intellectual integrity, quality and output of work do not figure in the existing PER forms, the grades secured and marks scored by the officer in overall assessment shall be notionally repeated for the other complementary evaluative aspects and form the basis of quantification.

(h) The performance of officers shall be evaluated in terms of the following grades and scores:

|    |               | Upto 11 <sup>th</sup> June, 2008 | From 12 <sup>th</sup> June, 2008 |
|----|---------------|----------------------------------|----------------------------------|
| 1. | Outstanding   | --                               | 10 Marks                         |
| 2. | Very Good     | 10 marks                         | 8 marks                          |
| 3. | Good          | 7 marks                          | 7 marks                          |
| 4. | Average       | 5 marks                          | 5 marks                          |
| 5. | Below Average | 1 mark                           | 1 mark                           |

(i) The outstanding grading shall be awarded to officers showing exceptional performance but in no case should exceed 10% of the officers reported on. The grading is not to be printed in the PER form but the reporting officer while rating an officer as "outstanding" may draw another box in his own hand in the form, initial it and write outstanding on the descriptive side. Convincing justification for the award shall be recorded by the reporting /countersigning officer. The discretion of awarding "outstanding" is to be exercised extremely sparingly and the award must be merited.

(j) The quantification formula and instructions for working out quantified score are annexed.

IV. PROMOTION OF OFFICERS WHO ARE ON DEPUTATION, LONG LEAVE, FOREIGN TRAINING:

- a) The civil servants who are on long leave i.e. one year or more, whether within or outside Pakistan, may be considered for promotion on their return from leave after earning one calendar PER. Their seniority shall, however, remain intact.
- b) The civil servants who are on deputation abroad or working with international agencies within Pakistan or abroad, will be asked to return before their cases come up for consideration. If they fail to return, they will not be considered for promotion. They will be considered for promotion after earning one calendar PER and their seniority shall remain intact.
- c) In case of projects partially or fully funded by the Federal or Provincial Government, where PERs are written by officers of Provincial Government, the condition of earning one calendar PER shall not be applicable. The officers on deputation to projects shall be considered for promotion. However, after promotion they will have to actualize their promotion within their cadre.
- d) The civil servants on deputation to Federal Government, Provincial Government, and autonomous/semi T autonomous organization shall be considered for promotion and informed to actualize their promotion within their cadres. They shall have to stay and not be allowed to go back immediately after promotion. Such stay shall be not less than a minimum of two years. If he/she declines his/her actual promotion will take place only when he/she returns to his/her parent cadre. His/her seniority in the higher post shall, however, stand protected.
- e) The cases of promotion of civil servants who have not successfully completed the prescribed mandatory training (MCMC, SMC & NMC) or have not passed the departmental examination for reasons beyond control, shall be deferred.
- f) Promotion of officers still on probation after their promotion in their existing Basic Scales shall not be considered.
- g) A civil servant initially appointed to a post in a Government Department but retaining lien in a department shall not be considered for promotion in his parent department. However, in case he returns to parent department, he would be considered for promotion only after he earns PER for one calendar year.
- h) A civil servant who has resigned shall not be considered for promotion no matter the resignation has yet to be accepted.

V. DEFERMENT OF PROMOTION:

- (a) Promotion of a civil servant will be deferred, in addition to reasons given in para-IV, if
  - (i) His inter-se-seniority is disputed/subjudice.
  - (ii) Disciplinary or departmental proceedings are pending against him.

(iii) The PER dossier is incomplete or any other document/ information required by the PSB/DPC for determining his suitability for promotion is not available for reasons beyond his control.

(b) The civil servant whose promotion has been deferred will be considered for promotion as soon as the reasons for deferment cease to exist. The cases falling under any of the above three categories do not warrant proforma promotion but the civil servant will be considered for promotion after determining his correct seniority over the erstwhile juniors.

(c) If an officer is otherwise eligible for promotion but has been inadvertently omitted from consideration in the original reference due to clerical error or plain negligence and is superseded, he should be considered for promotion as soon as the mistake is noticed.

(d) If and when an officer, after his seniority has been correctly determined or after he has been exonerated of the charges or his PER dossier is complete, or his inadvertent omission for promotion comes to notice, is considered by the Provincial Selection Board/ Departmental Promotion Committee and is declared fit for promotion to the next higher basic scale, he shall be deemed to have been cleared for promotion alongwith the officers junior to him who were considered in the earlier meeting of the Provincial Selection Board/Departmental Promotion Committee. Such an officer, on his promotion will be allowed seniority in accordance with the proviso of sub-section (4) of Section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, whereby officers selected for promotion to a higher post in one batch on their promotion to the higher post are allowed to retain their inter-se-seniority in the lower post. In case, however, the date of continuous appointment of two or more officers in the lower post/grade is the same and there is no specific rule whereby their inter-se-seniority in the lower grade can be determined, the officer older in age shall be treated senior.

(e) If a civil servant is superseded he shall not be considered for promotion until he earns one PER for the ensuing one full year.

(f) If a civil servant is recommended for promotion to the higher basic scale/post by the PSB/DPC and the recommendations are not approved by the competent authority within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

**DATE OF PROMOTION:**

Promotion will always be notified with immediate effect.

**VII NOTIONAL PROMOTION:**

In respect of civil servants who retire (or expire) after recommendation of their promotion by the PSB/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be, and their pension shall be calculated as per pay which they would have received had they not retired/expired.

PENALTIES.VIII. PROMOTION OF CIVIL SERVANTS WHO ARE AWARDED MINOR

- (a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.
- (b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

IX. PROMOTION IN CASE OF PENDING INVESTIGATIONS BY NAB:

If there are any NAB investigations being conducted against an officer, the fact of such investigations needs to be placed before the relevant promotion fora which may take a considered decision on merits of the case.

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.

Annex-B

Government Of Khyber Pakhtunkhwa,  
Local Government, Elections & Rural Development Department

NOTIFICATION

Dated Peshawar, the 22<sup>nd</sup> August, 2017

No. SO(LG-114-118/ADS/S.LIST/2017/VOL-II-1195-65 In pursuance of Section-8 of the Khyber Pakhtunkhwa, Civil Servants Act, 1973 and approval of the Competent Authority, final seniority list of Assistant Directors, Local Government, Elections & Rural Development Department Khyber Pakhtunkhwa as it stood on 30.12.2016 is notified as under:-

FINAL SENIORITY LIST OF ASSISTANT DIRECTORS (BPS-17) LG&RDD AS STOOD ON 30.12.2016

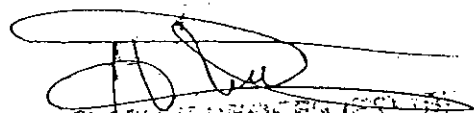
Total sanctioned posts of Assistant Directors (BPS-17):- 41

| S# | Name of officer        | Edu Quall             | Domicile | Date of Birth | Date of 1 <sup>st</sup> Entry into Service | 1 <sup>st</sup> regular appointment to service / cadre |     |                       | Promotion to present BPS     |            | Remarks if any |
|----|------------------------|-----------------------|----------|---------------|--|--|-----|-----------------------|------------------------------|------------|----------------|
|    |                        |                       |          |               |  | Date   | BPS | Method of recruitment | BPS                          | Date       |                |
|    |                        |                       |          |               |  |  |     |                       |                              |            |                |
| 1  | 2                      | 3                     | 4        | 5             | 6  | 7  | 8   | 9                     | 10                           | 11         | 12             |
| 1  | M. Muhammad Zahoor     | M.A Eco:              | MKD      | 09.05.1961    | 06.11.1988                                 | 06.11.1988   | 17  | Direct                | 18<br>(personally up-graded) | 25.07.2013 |                |
| 2  | M. Muhammad Fahim      | M.B.A                 | Swat     | 14.02.1963    | 06.11.1988                                 | 06.11.1988   | 17  | -do-                  | 18<br>(personally up-graded) | -do-       |                |
| 3  | Mr. Faiz Muhammad Khan | M.A (PS) & Journalism | N.W.A    | 12.04.1962    | 08.03.1992                                 | 08.03.1992   | 17  | -do-                  | 18<br>(personally up-graded) | -do-       |                |

|    |                     |                  |           |            |            |                                   |    |          |                              |            |  |
|----|---------------------|------------------|-----------|------------|------------|-----------------------------------|----|----------|------------------------------|------------|--|
| 4  | Mr. Israrullah Khan | M.A Eco:         | Swabi     | 19.04.1964 | 03.03.1992 | 03.03.1992                        | 17 | -do-     | 18<br>(personally up-graded) | -do-       |  |
| 5  | Mr. Shad Muhammad   | M.Sc             | Mansehra  | 03.04.1958 | 22.11.1988 | 22.11.1988<br>as Progress Officer | 16 | Promotee | 17                           | 27-08-2012 | Consequent upon acceptance of their departmental appeals / representations by the appellate authority, the officers mentioned at Sl. No.6 to 10 have regained their seniority. |
| 6  | Mr. Sheraz Ahmad    | M.A (P. Science) | Swabi     | 15.09.1960 | 22.11.1988 | 22.11.1988<br>as Progress Officer | 16 | -do-     | 17                           | 16.05.2013 | -do-   |
| 7  | Mr. Abdul Rashid    | M.A              | Haripur   | 01.01.1961 | 22.11.1988 | 22.11.1988<br>as Progress Officer | 16 | -do-     | 17                           | 27.08.2012 | -do-   |
| 8  | Mr. Fazlullah       | M.A (Sociology)  | Swabi     | 08-10-1962 | 22.11.1988 | 22.11.1988<br>as Progress Officer | 16 | -do-     | 17                           | 16-05-2013 | -do-   |
| 9  | Mr. Shibli Khan     | M.Sc (Hon: Agri) | Swabi     | 01.05.1965 | 22.11.1988 | 22.11.1988<br>as Progress Officer | 16 | -do-     | 17                           | 16.05.2013 | -do-   |
| 10 | Mr. Sardar-Ul-Mulk  | M.Sc (Hons)      | MKD       | 01.01.1966 | 07.09.1993 | 07.09.1993                        | 17 | Direct   | 18<br>(personally up-graded) | 25.07.2013 |  |
| 11 | Mr. Akhtar          | M.Sc             | Charsadda | 01.04.1961 | 09.09.1993 | 09.09.1993                        | 17 | -do-     | 18<br>(personally up-graded) | 25.07.2013 |  |

**SECTION OFFICER (ESTAB)**  
**Local Govt. Elections & Rural**  
**Development Department KP**

|    |                       |                  |                |            |                                |                                |      |          |                              |            |  |
|----|-----------------------|------------------|----------------|------------|--------------------------------|--------------------------------|------|----------|------------------------------|------------|--|
| 12 | Mr. Riaz Ahmad        | M.Sc (Hon: Agri) | Swabi          | 06.05.1966 | 07.09.1993                     | 07.09.1993                     | 17   | -do-     | 18<br>(personally up-graded) | 25.07.2013 |  |
| 13 | Mr. Khalid Israr Shah | M.A (P.Science)  | Bannu          | 13.10.1966 | 01.09.1993                     | 05.09.1993                     | 17   | -do-     | 18<br>(personally up-graded) | 25.07.2013 |  |
| 14 | Mr. Sajid Gul         | M.S(Agri)        | Dir Lower      | 09.05.1965 | 05.09.1993                     | 05.09.1993                     | 17   | -do-     | 18<br>(personally up-graded) | 25.07.2013 |  |
| 15 | Mr. Said Rehman       | M.A (P.S)        | Mohmand Agency | 25.06.1965 | 13.09.1993                     | 13.09.1993                     | 17   | -do-     | 18<br>(personally up-graded) | 25.07.2013 |  |
| 16 | Syed Husnain Kazmi    | M.Sc (Agri)      | Manshera       | 10.04.1966 | 07.09.1993                     | 09.09.1993                     | 17   | -do-     | 18<br>(personally up-graded) | 25.07.2013 |  |
| 17 | Mr. Muhammad Jehangir | M.Sc             | Peshawar       | 17.09.1965 | 25.05.1993                     | 25.05.1993<br>Progress Officer | 16   | Promotee | 18<br>(personally up-graded) | 26.12.1996 |  |
| 18 | Qazi Noor-Ul-Wahab    | M.Sc             | Nowshera       | 16.03.1996 | 26.05.1993                     | 26.05.1993<br>Progress Officer | 16   | -do-     | 18<br>(personally up-graded) | 26.12.1996 |  |
| 19 | Mr. Alam Zeb          | M.A              | Swabi          | 15.09.1958 | 23.12.1980                     | 23.12.1980                     | 16   | -do-     | 18<br>(personally up-graded) | 26.12.1986 |  |
| 20 | Mr. Salim Raza        | M.A              | Charsadda      | 15.12.1964 | 28.02.1990<br>(Supervisor B-9) | 28.02.1990                     | BS-9 | -do-     | 17                           | 27.08.2012 |  |
| 21 | Mr. Asadullah         | B.A              | Charsadda      | 28.09.1966 | -do-                           | -do-                           | BS-9 | -do-     | 17                           | 27.08.2012 |  |

  
 SELECTION OFFICER (ES/10)  
 Local Govt. Elections & Rural  
 Development Department KP

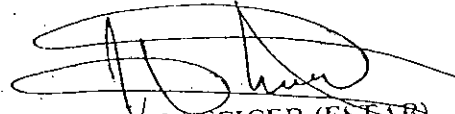
SECRETARY TO GOVERNMENT OF KP.  
 LOCAL GOVT. ELECTIONS & RURAL  
 DEVELOPMENT DEPARTMENT

Dated Peshawar, the 22<sup>nd</sup> August, 2017

No. SO(LG-D)4-118/ADS/S.LIST/2017/VOL-II

Copy forwarded to:-

1. ~~The Director General, LG&RDD Khyber Pakhtunkhwa, Peshawar.~~
2. ~~The Director FATA, LG&RDD Warsak Road Peshawar.~~
3. ~~All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa~~
4. The Manager Government Printing Press Peshawar. He is requested to provide 100 printed copies of the seniority list.
5. The PS to Secretary LG,E&RD Department Peshawar.
6. The Office order file.

  
SECTION OFFICER (ESTAB)  
Phone # 091-9213224



| Sr. No. | Date of order/proceedings | Order or other proceedings with signature of Judge or Magistrate |
|---------|---------------------------|--|
| 1       | 2                         | 3  |



Annex-c

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**Appeal No. 1182/2017**

Date of Institution ... 24.10.2017  
Date of Decision ... 03.01.2019

Akhtar Munir Assistant Director BPS-18, LG&RDD, Charsada.  
-----Appellant

1. The Chief Secretary of Govt. Khyber Pakhtunkhwa Peshawar.
2. Secretary Local Government, Election & Rural Development Department Government of Khyber Pakhtunkhwa Peshawar.
3. Director Local Government & Rural Development Department, Govt. of Khyber Pakhtunkhwa.
4. Mr. Shad Muhammad, Assistant Director, LG&RDD, Torghar.
5. Mr. Sheraz Ahmad Assistant Director LG&RDD, Orakzai Agency.
6. Mr. Abdul Rashid Assistant Director LG&RDD, Haripur.
7. Mr. Fazlullah, Assistant Director LG&RDD, Mardan.
8. Mr. Shibli Khan, Assistant Director LG&RDD, Swabi.

-----Respondents  
**Mr. Hamid Farooq Durrani**.....Chairman  
**Mr. Hussain Shah**.....Member

03.01.2019

**JUDGMENT**

**HUSSAIN SHAH, MEMBER:** - Appellant, learned counsel

for the appellant and Mr. Zia Ullah learned Deputy District Attorney on behalf of the official respondents and counsel for the Private respondents also present.

2. The appellant was appointed as Assistant Director in the Local Government Election & Rural Development Department on 09.09.1993. The respondent No.2 issued a tentative seniority list of the Assistant Directors on 27.10.2015 for information of all concerned with remarks that the objection/reservations, if any of

**ATTENDED**

*[Signature]*  
**Mr. Hussain Shah**  
Member  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

members of the cadre of Assistant Directors, may be conveyed before 30.11.2015. The appellant conveyed his objection/reservation against the aforementioned seniority list within the stipulated time period on the ground that respondents No.4 to 8 had been shown senior to the appellant. The Competent Authority notified the final seniority list of the Assistant Director of the department On 22.08.2017 without considering the objections/reservations raised by the appellant. The appellant preferred a departmental appeal against the final seniority list on 06.09.2017 which was not accepted and the appellant was directed to seek remedy from the court of law. Feeling aggrieved the appellant preferred the instant service appeal on 24.10.2017 with the prayer that on acceptance of the instant appeal, the seniority position of the appellant be rectified as per basic pay scale and the appellant be declared senior to the respondents No. 4 to 8 with such other relief as may deem fit in the circumstances of the case also be granted.

3. The learned counsel for the appellant argued that the appellant was appointed as Assistant Director on 09.09.1993 in BPS-17 while at that time the respondents No. 4 to 8 were working in BPS-16 as contract employees in a project. The appellant was granted personal up-gradation in BPS-18 on 27.05.2013 while the respondents' No. 4 to 8 were promoted to BPS-17 on different dates in the year 2012 & 2013. The learned counsel for the appellant referred to rules 17 (03) of the Khy

ATTESTED

*[Signature]*  
 Assistant Director  
 Government of Karnataka  
 Bangalore

Promotion and Transfer) Rules, 1989 wherein it has been provided that *"Seniority in various cadres of Civil servants appointed by initial recruitment vis-a-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment"*. As the appellant was appointed as Assistant Director on 09.09.1993 while the respondents No. 4 to 8 were appointed on promotion as Assistant Director in year 2012 & 2013 hence the appellant stands senior to the private respondents therefore the appeal may be accepted as prayed.

4. Contesting the facts, grounds and prayer of the appellant the private respondents' No. 5 to 8 submitted detailed Para-wise comments and Mr. Khalid Rehman, the learned counsel for the replying private respondents, argued the case on their behalf. In reply to the facts the learned counsel for replying respondents argued that they were initially appointed as progress officer (BPS-16) on contract basis. They were regularized, sequel to the judgment of Hon'ble Apex Court, dated 25.08.2005 read with the Employees on contract Basis (Regularization of Services), Act 1989 from the date of their initial appointment vide notification dated 10.11.2005 and 16.12.2005. They were promoted to BPS-17 as Assistant Director in the year 2012 and 2013 with immediate effect. The learned council for respondents no 5 to 8 further argued that the Impugned Seniority list had been issued in response to the claim of

ATTESTED

*[Signature]*  
 Secretary, Government of Punjab,  
 Lahore

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the private respondents on the ground that their services as planning officers in the project be considered as the date of their entry in to the cadre of Assistant director. He further argued that at the stage of departmental representation the Appellant and his colleague challenged the impugned seniority list vide a joint representation which is against the law.

5. The joint reply of the official respondents was argued by the learned DDA and relied mainly on the arguments of the learned counsel of the private respondents 5 to 8. It was contented that private respondents were initially appointed as progress officer (BPS-16) in a project on contract bases and they were regularized as Progress officer in the light of the Judgment of the Supreme Court and their seniority was determined as Progress Officers. Later on the Private Respondents were promoted to the post of Assistant Directors in the years 2012 and 2013. The learned DDA further argued that the impugned seniority was issued after consultation with the Establishment Department.

6. Arguments heard. File perused.

7. The Tribunal examined the record on file and the arguments of the learned counsels of the parties. It is an admitted fact that the appellant was appointed as Assistant Director in the department on 09-09-1993 on the recommendation of the Khyber Pakhtunkhwa Public Service Commission. It is also an admitted fact that the private respondents were initially appointed on contract as progress officers in a project and they were regularized in the light of the

ATTESTED

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judgment of the Honorable Supreme Court of Pakistan. It is also admitted fact that the private respondents were promoted to the post of Assistant Director in the years 2012 and 2013. According to the relevant provision of the Section 8 (4) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule-17 of the KPK Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 the seniority in a cadre, post or service is reckoned from the date of regular appointments of a civil servant. Moreover Sub-rule 2 of Rule-17 of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 provides the touch stone to resolve the instant dispute which is reproduced herein again, *"Seniority in various cadres of Civil servants appointed by initial recruitment vis-a-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment"*.

According to the facts as on file appellant was appointed on regular basis as Assistant Director in LGRRD Department on 09-09-1993 while the private respondents were appointed as Assistant Director in the year 2012 and 2013. As such on the basis of the date of regular appointment as Assistant Director the appellant is senior to the private respondents. As regarding the regularization of the

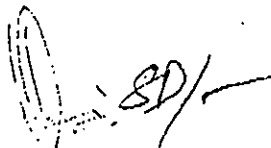
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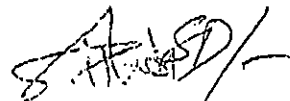
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 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

from their initial appointment is concerned this tribunal is of the view that it cannot be counted for determining their seniority in the cadre or post of Assistant Directors. Their seniority as Assistant Directors in the department shall be determined from the date of their regularly appointed on promotion as Assistant Director and not from the date of their regularization of service as progress officer in BPS-16. In the presence of the explicit provisions of law no interpretation against the spirit of law through advices or consultation among the government department stands grounds.

8. In view of the above discussion the appeal is accepted with direction to the respondents department to place the appellant senior to the private respondents No.5 to 8. Parties are left to bear their own costs. File be consigned to the record room.

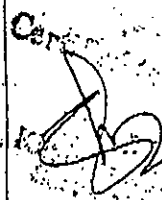


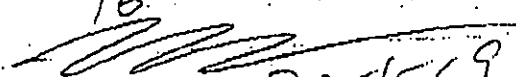
(HAMID FAROOQ DURRANI)  
CHAIRMAN



(HUSSAIN SHAH)  
MEMBER

ANNOUNCED  
03.01.2019

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| Name of ...   |  |
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| Date of ...   | 30-1-19  |

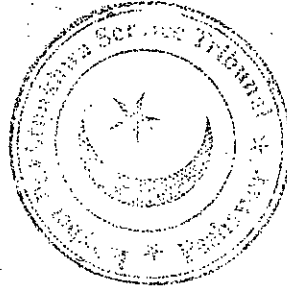
**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**

Khyber Pakhtunkhwa Service Tribunal

SERVICE APPEAL NO. 1182 / 2017

Diary No. 1214

Dated 24-10-2017



**AKHTAR MUNIR,**  
Assistant Director BPS-18,  
LG&RDD, Charsadda.

..... **Appellant**

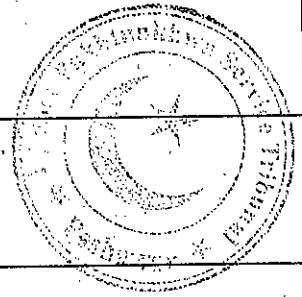
**VERSUS**

1. **GOVERNMENT OF KHYBER PAKHTUNKHWA,**  
Through Chief Secretary,  
Government of Khyber Pakhtunkhwa, Peshawar.
2. **SECRETARY,**  
Local Government, Elections &  
Rural Development Department,  
Government of Khyber Pakhtunkhwa, Peshawar.
3. **DIRECTOR,**  
Local Government & Rural Development Department,  
Government of Khyber Pakhtunkhwa, Peshawar.
4. **MR. SHAD MUHAMMAD,**  
Assistant Director, LG&RDD, Torghur.
5. **MR. SHERAZ AHMAD,**  
Assistant Director, LG&RDD, Orakzai Agency.
6. **MR. ABDUL RASHID,**  
Assistant Director, LG&RDD, Haripur.

Filed today  
*Sandhu*  
Registrar  
24/10/17

**ATTESTED**

*[Signature]*  
Registrar  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar

| Sr. No | Date of order/proceedings | Order or other proceedings with signature of Judge or Magistrate   |
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|        | 03.01.2019                | <div data-bbox="1177 300 1476 598" style="text-align: right;">  </div> <p style="text-align: center;"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b><br/>Appeal No. 1182/2017</p> <p>Date of Institution ... 24.10.2017<br/>Date of Decision ... 03.01.2019</p> <p>Akhtar Munir Assistant Director BPS-18, LG&amp;RDD, Charsada.<br/>-----Appellant</p> <ol style="list-style-type: none"> <li>1. The Chief Secretary of Govt. Khyber Pakhtunkhwa Peshawar.</li> <li>2. Secretary Local Government, Election &amp; Rural Development Department Government of Khyber Pakhtunkhwa Peshawar.</li> <li>3. Director Local Government &amp; Rural Development Department, Govt. of Khyber Pakhtunkhwa.</li> <li>4. Mr. Shad Muhammad, Assistant Director, LG&amp;RDD, Torghar.</li> <li>5. Mr. Sheraz Ahmad Assistant Director LG&amp;RDD, Orakzai Agency.</li> <li>6. Mr. Abdul Rashid Assistant Director LG&amp;RDD, Haripur.</li> <li>7. Mr. Fazlullah, Assistant Director LG&amp;RDD, Mardan.</li> <li>8. Mr. Shibli Khan, Assistant Director LG&amp;RDD, Swabi.</li> </ol> <p style="text-align: right;">-----Respondents</p> <p><b>Mr. Hamid Farooq Durrani.....Chairman</b><br/><b>Mr. Hussain Shah.....Member</b></p> <p style="text-align: center;"><b><u>JUDGMENT</u></b><br/><b><u>HUSSAIN SHAH, MEMBER:</u></b> - Appellant, learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney on behalf of the official respondents and counsel for the Private respondents also present.</p> <p>2. The appellant was appointed as Assistant Director in the Local Government Election &amp; Rural Development Department on 09.09.1993. The respondent No.2 issued a tentative seniority list of the Assistant Directors on 27.10.2015 for information of all concerned with remarks that the objection/reservations, if any of</p> |



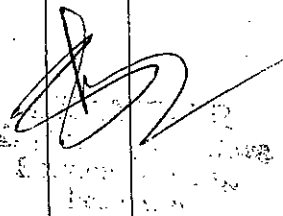
members of the cadre of Assistant Directors may be conveyed before 30.11.2017. The appellant conveyed this objection against the aforementioned seniority list within the stipulated time period on the ground that respondents No. 4 to 8 had been shown senior to the appellant. The Competent Authority notified the final seniority list of the Assistant Director of the department on 22.02.2017 without considering the objection/reservations raised by the appellant. The appellant preferred a departmental appeal against the final seniority list on 06.09.2017 which was not accepted and the appellant was directed to seek remedy from the court of law. Feeling aggrieved the appellant preferred the instant service appeal on 24.10.2017 with the prayer that on acceptance of the instant appeal the seniority position of the appellant be rectified as per basic pay scale and the appellant be declared senior to the respondents No. 4 to 8 with such other relief as may deem fit in the circumstances of the case also be granted.

The learned counsel for the appellant argued that the appellant was appointed as Assistant Director on 09.09.1993 in BPS-17 while at that time the respondents No. 4 to 8 were working in BPS-16 as contract employees in a project. The appellant was granted personal up-gradation in BPS-18 on 27.02.2013 while the respondents No. 4 to 8 were promoted to BPS-17 on different dates in the year 2003-04. The learned counsel for the appellant referred to rules 17 (3) of the Khyber Pakhtunkhwa Civil Services (Appointment)

Promotion and Transfer) Rules, 1989 wherein it has been provided that *“Seniority in various cadres of Civil servants appointed by initial recruitment vis-a-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment”*. As the appellant was appointed as Assistant Director on 09.09.1993 while the respondents No. 4 to 8 were appointed on promotion as Assistant Director in year 2012 & 2013 hence the appellant stands senior to the private respondents therefore the appeal may be accepted as prayed.

4. Contesting the facts, grounds and prayer of the appellant the private respondents' No. 5 to 8 submitted detailed Para-wise comments and Mr. Khalid Rehman, the learned counsel for the replying private respondents, argued the case on their behalf. In reply to the facts the learned counsel for replying respondents argued that they were initially appointed as progress officer (BPS-16) on contract basis. They were regularized, sequel to the judgment of Hon'ble Apex Court, dated 25.08.2005 read with the Employees on contract Basis (Regularization of Services), Act 1989 from the date of their initial appointment vide notification dated 10.11.2005 and 16.12.2005. They were promoted to BPS-17 as Assistant Director in the year 2012 and 2013 with immediate effect. The learned council for respondents no 5 to 8 further argued that the Impugned Seniority list had been issued in response to the claim of

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the private respondents on the ground that their services as planning officers in the project be considered as the date of their entry in to the cadre of Assistant director. He further argued that at the stage of departmental representation the Appellant and his colleague challenged the impugned seniority list vide a joint representation which is against the law.

5. The joint reply of the official respondents was argued by the learned DDA and relied mainly on the arguments of the learned counsel of the private respondents 5 to 8. It was contented that private respondents were initially appointed as progress officer (BPS-16) in a project on contract bases and they were regularized as Progress officer in the light of the Judgment of the Supreme Court and their seniority was determined as Progress Officers. Latter on the Private Respondents were promoted to the post of Assistant Directors in the years 2012 and 2013. The learned DDA further argued that the impugned seniority was issued after consultation with the Establishment Department.


6. Arguments heard. File perused.

7. The Tribunal examined the record on file and the arguments of the learned counsels of the parties. It is an admitted fact that the appellant was appointed as Assistant Director in the department on 09-09-1993 on the recommendation of the Khyber Pakhtunkhwa Public Service Commission. It is also an admitted fact that the private respondents were initially appointed on contract as progress officers in a project and they were regularized in the light of the

judgment of the Honorable Supreme Court of Pakistan. It is also admitted fact that the private respondents were promoted to the post of Assistant Director in the years 2012 and 2013. According to the relevant provision of the Section 8 (4) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule-17 of the KPK Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 the seniority in a cadre, post or service is reckoned from the date of regular appointments of a civil servant. Moreover Sub-rule 2 of Rule-17 of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989 provides the touch stone to resolve the instant dispute which is reproduced herein again, "*Seniority in various cadres of Civil servants appointed by initial recruitment vis-a-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment*".

According to the facts as on file appellant was appointed on regular basis as Assistant Director in LGRRD Department on 09-09-1993 while the private respondents were appointed as Assistant Director in the year 2012 and 2013. As such on the basis of the date of regular appointment as Assistant Director the appellant is senior to the private respondents. As regarding the regularization of the private respondents from the date of their initial appointment as progress officers in BPS-16 and counting their subsequent seniority

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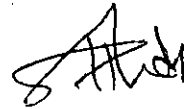
  
 Secretary  
 Government of Khyber Pakhtunkhwa

from their initial appointment is concerned this tribunal is of the view that it cannot be counted for determining their seniority in the cadre or post of Assistant Directors. Their seniority as Assistant Directors in the department shall be determined from the date of their regularly appointed on promotion as Assistant Director and not from the date of their regularization of service as progress officer in BPS-16. In the presence of the explicit provisions of law no interpretation against the spirit of law through advices or consultation among the government department stands grounds.

8. In view of the above discussion the appeal is accepted with direction to the respondents department to place the appellant senior to the private respondents No.5 to 8. Parties are left to bear their own costs. File be consigned to the record room.



(HAMID FAROOQ DURRANI)  
CHAIRMAN

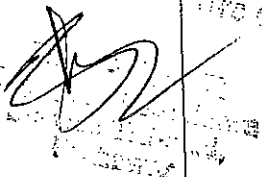


(HUSSAIN SHAH)  
MEMBER

ANNOUNCED

03.01.2019

Certified to be true copy



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30-01-19

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Fixed for: 14.03.2019

Civil Miscellaneous No: \_\_\_\_\_ / 2019

In Service Appeal No: 187 / 2018

SHIBLI KHAN

VS Govt. of Khyber Pakhtunkhwa etc.

put up to the court with  
relevant app. APPLICATION FOR IMPLEADMENT

Respectfully Sheweth,

- 12/2
- Respectfully
- 1) That, the titled Service Appeal is pending subjudice before this Honorable Court and is fixed for 14.03.2019.
  - 2) That, Appellant was placed senior to the Applicant in Final Seniority List dated 22.08.2017 which was objected and then Challenged before this Honourable Forum through Service Appeal No. 1182 / 2017.
  - 3) That, said Service Appeal of the Applicant has now been accepted and the Appellant has been ordered to be placed junior to the Applicant, copy of the Order / Judgment dated 03.01.2019 is attached as Annexure A.
  - 4) That, it is important to mention here that the Appellant was also arrayed as party in the Service Appeal No. 1182 / 2017 and was heard as well, at length, by this Honourable Tribunal.
  - 5) That, instant Appeal has been filed by the Appellant for the purpose of promotion from the year 1991-1992.
  - 6) That, if the Appeal of the Appellant is accepted, the valuable service rights / Seniority Position of the Applicant will be infringed.
  - 7) That, Appellant has mala fide not impleaded the Applicant as party despite the fact that the case of Seniority was under dispute between the same parties and before the same Tribunal.
  - 8) That, any benefit if granted or refused will ultimately affect the Applicant's Seniority.

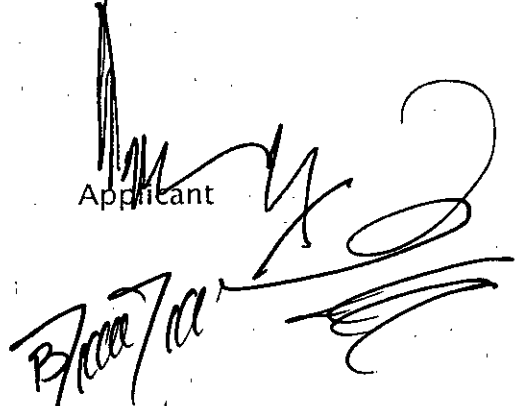
- 9) That, there is no legal lacuna or bar in impleading the Applicant as necessary party.
- 10) That, after Impleadment, the Applicant will help and assist this Honourable Court to arrive at a correct and just decision of the lis, as early as possible.
- 11) That, following are the particulars of the Applicant:

Respondent No. 4 **AKHTAR MUNIR**  
Assistant Director,  
BPS-18,  
LG&RDD, Charsadda.

It is, therefore, requested that Applicant may please be arrayed / added as Respondent No. 4 in the Column of Respondents.

Applicant

Through:

  
**BILAL AHMAD KAKAIZAI**  
(Advocate, Peshawar)

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

Civil Miscellaneous No: \_\_\_\_\_ / 2019  
In Service Appeal No: 187 / 2018

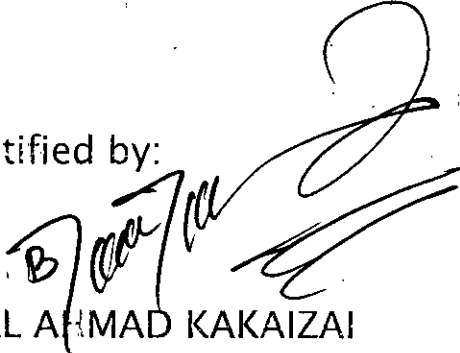
Shibli Khan

VS Govt. of Khyber Pakhtunkhwa etc.

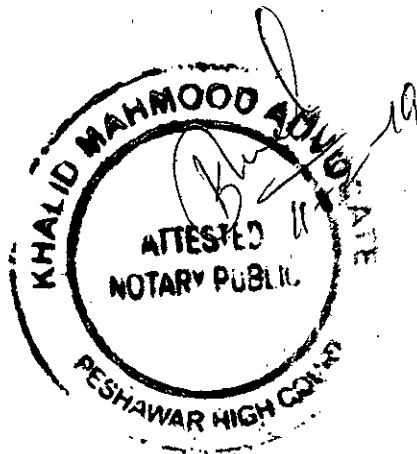
**AFFIDAVIT**

I, AKHTAR MUNIR, Assistant Director, BPS-18, LG&RDD, Charsadda, Applicant, do hereby on oath affirm and declare that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

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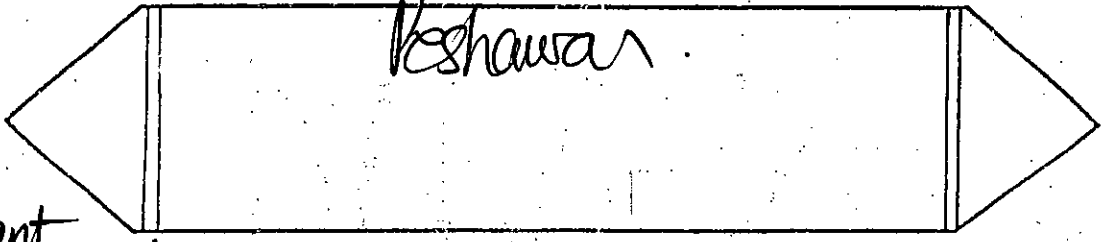
  
BILAL AHMAD KAKAIZAI  
(Advocate, Peshawar)

  
Deponent





KPK Service Tribunal, بعدالت  
Peshawar



Applicant

جناب

Govt. of KPK etc بنام Shibli Khan

187/18

موزخہ  
مقدمہ  
دعویٰ  
جرم

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
آن مقام Peshawar کیلئے Bilal-A-Kawani Adv

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
دکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک دروپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصویق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی 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 یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے 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  
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

11-2-19

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ماہ

المرقوم

واہ العب گ

کے لئے منظور ہے۔

بمقام

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