

BEFORE THE SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 1408/2022.

Ms. Sadia Rehman, Planning Officer, (PPS BS-17), presently serving in the office of
Commissioner, Peshawar Division

.....**APPELLANT**

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
2. Secretary Establishment Department, Govt of Khyber Pakhtunkhwa.
3. Secretary Planning & Development Department, Govt of Khyber Pakhtunkhwa.
4. Secretary Finance Department, Govt of Khyber Pakhtunkhwa.
5. Mr. Kaleem Ullah, Senior Planning Officer (OPS), Sports Department, Peshawar & 77
others

.....**RESPONDENTS**

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DEPONENT

Through

SECTION OFFICER (LIT)

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

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5. Mr. Kaleem Ullah, Senior Planning Officer (OPS), Sports Department, Peshawar
& 77 others**RESPONDENTS**

JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS (1 to 4).

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:



- 1- That the appeal is not maintainable in its present form.
- 2- That the appellant has got no locus standi and cause of action to file the instant appeal.
- 3- That the appellant did not come to the Tribunal with clean hands.
- 4- That the appeal is not maintainable due to mis-Joinder and non-Joinder of necessary and proper parties.
- 5- That the appellant concealed the material fact from the Honorable Tribunal.
- 6- That the appellant is estopped by his own conduct to file the present appeal.
- 7- That the appeal is barred in law and limitation.

FACTS:

- 1) Pertains to record.
- 2) Pertains to record.
- 3) Pertains to record.
- 4) Correct to the extent that various projects were regularized under Khyber Pakhtunkhwa Employees (Regularization of Service), Act, 2018 and in light of the Provincial Cabinet decision made in its meeting held on 09.05.2019 (Annex-I), all

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planning oriented posts in BS-17 and above, of newly regularized components/units of P&D Department and Planning Cells of Administrative Departments, Civil Secretariat alongwith incumbents as well as left over posts were included in the Schedule-I of the PPS Service Rules.

- 5) Correct to the extent that tentative seniority lists were issued time and again in October, 2020, July, 2021 and April 2022, however, many PPS Officers of the cadre objected due to which it was not finalized by the competent authority. Moreover, respondent No. 2 was tasked to look into the matter as per relevant sections of Act, Rules pertaining to seniority and resolve the issue. Later on the issue was decided to resolve in light of Section-8(4) of Civil Servant Act, 1973 (**Annex-II**) as well as in light of Section-4, Section-6 and inter-se-seniority vide Sub-Section-2 of Section-6 of Regularization Act, 2018 (**Annex-III**) and Rule-8 of PPS Rules, 2018 (**Annex-IV**).
- 6) Correct to the extent that the appellant made representations which were processed/examined and regretted/filed being not covered under the rules/policy.
- 7) Correct to the extent that final seniority list was issued vide notification dated 22.05.2022 and the appellant was rightly placed as per her initial date of appointment 29.10.2018. Moreover, while placing the incumbent in seniority list; the provision in Section-4 of Regularization Act, 2018 was kept in sight, however, her date of recommendation by KPPSC was 27.03.2018 and 17.08.2018 i.e. after promulgation of Regularization Act, 2018; as such she was placed junior to the project regularized employees (**Annex-V**).
- 8). Correct to the extent that the appellant was submitted representation, however, based on reply of the Administrative Department vide letter dated 13.07.2022 (**Annex-VI**) the same was filed.
- 9). The departmental appeal of the appellant was processed and filed being not covered under the rules, hence appeal is not maintainable on following grounds:

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GROUND:

- A. Incorrect. As final seniority list dated 25.05.2022 was issued in light of provision mentioned in relevant sections of Civil Servant Act, 1973, Regularization Act, 2018 and PPS Rules, 2018, therefore, ground-a of the Service Appeal is not tenable.
- B. Incorrect. The final seniority list was issued in accordance with Section-6 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 as well as, as per provisions of Khyber Pakhtunkhwa Civil Servants Act, 1973, Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and not in violation of any rule/policy.
- C. Incorrect. The seniority of regularized project employees was decided in light of Section-4 and Section-6 of the Regularization Act, 2018. Section-4 of the ibid Act provides that **“notwithstanding anything contained in any law or rules, the employees at Sub-clause(ii) of clause(e) of Sub-section(1) of Section(2) of this act, appointed on contract basis against project post and holding such project post till the commencement of this Act, shall be deemed to have been validly appointed on regular basis from the date of commencement of this act, subject to verification of their qualification and other credential by the concerned government department”**. In light of the above provision their seniorities were fixed from the date of regularization i.e. 17.03.2018. Moreover, the date of appointment of the appellant was 29.10.2018, therefore, in seniority list the appellant was placed below to the officers who were regularized under the Regularization Act, 2018.
- D. Incorrect. Each and every case/decision has its own merits and the decision of the Hon'able Supreme Court of Pakistan 2013 SCMR 1752 and their office order notification dated 25.02.2014 circulated by the Khyber Pakhtunkhwa through Establishment Department is not applicable in the instant case. Project employees were regularized under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 and they were given seniority in the PPS Cadre in light of the decision of the Provincial Cabinet.
- E. Incorrect. Final seniority list has been issued in accordance with the law/rules.
- F. Incorrect. Final seniority list was issued after fulfilling all codal formalities and in accordance with rules, regulations and law.
- G. Incorrect. The Departmental Appeal of the appellant was rejected being not covered under the rules/policy.

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- H. Incorrect, as explained in preceding paras of the Facts and Ground-B, seniority of the employees regularized under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 has been fixed from the date of their regularization i.e. 07.03.2018 and not from the date of their appointment on ad-hoc/contract basis. Moreover, the appellant has been given seniority from the date of her appointment i.e. 29.10.2018 which is later than regularization date of the employees and hence, she has been placed rightly junior to them.
- I. Incorrect. As explained in the preceding paras of Facts and Grounds. Final seniority list of PPS BS-17 was issued in accordance with rules/law/policy.
- J. Name of the regularized and encadred employees have already been published in official Gazette.
- K. The respondents also seek leave of this honorable Tribunal to raise further points at any time during arguments before this honorable Tribunal.

PRAYER:

Keeping in view of the above reasonable & just grounds, it is very humbly prayed that the Service Appeal may graciously be dismissed with cost of the appellant.

CHIEF SECRETARY
Khyber Pakhtunkhwa,
(Respondent No. 01)

SECRETARY
Establishment Department,
Govt. of Khyber Pakhtunkhwa.
(Respondent No. 02)

SECRETARY,
P&D Department,
Govt: of Khyber Pakhtunkhwa.
(Respondent No. 03)

SECRETARY
Finance Department,
Govt. of Khyber Pakhtunkhwa.
✓ (Respondent No. 04)

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BEFORE THE SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL.NO. 1408/2022.

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others

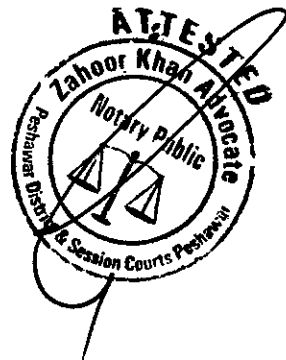
.....RESPONDENTS

AFFIDAVIT

I, Assad Ullah Khan, Section Officer (Lit), Planning & Development Department do hereby solemnly affirm and declare on oath that the contents of Comment are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal, intentionally.

It is further stated on oath that in this appeal, the answering respondent have neither been placed ex-parte nor their defence has been struck-off/cost.

DEPONENT
CNIC No. 17301-6715993-1
Cell # 0313-0993747



24 AUG 2023



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMN: DEPARTMENT
(CABINET WING)
No.SOC(E&AD)9-15/2019
Dated Peshawar the 14th May, 2019.

19/6

To,

The Secretary to Govt. of Khyber Pakhtunkhwa
Establishment Department.

Annex-I

SUBJECT: DECISION OF MEETING OF THE PROVINCIAL CABINET
DATED 09.05.2019.

Dear Sir,

I am directed to forward herewith the following decision of the meeting of the Provincial Cabinet held on 09.05.2019 under the chairmanship of Chief Minister, Khyber Pakhtunkhwa for implementation.

ADDITIONAL ITEM NO. 08.
SETTLEMENT OF ANOMALIES ARISING OUT IN THE WAKE OF PROMULGATION OF THE KHYBER PAKHTUNKHWA EMPLOYEES (REGULARIZATION OF SERVICES), ACT, 2018

Decision of the Cabinet:

The Cabinet approved recommendations of the Ministerial Committee as under:

- a) With regard to contingent/lived pay/daily wages staff appointed/recruited by the departments prior to promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 without adopting codal formalities under Project Policy, it was agreed that those contingent employees, 35 in number (31 in P&D and 4 in Home Department) may be given one time relaxation for regularization of their services subject to certification of their credentials and suitability by the concerned Government Departments provided that it should not be quoted as precedent to follow in other cases, rather a special dispensation to the contingent paid employees vide order of Peshawar High Court decision given in the Writ Petition No. 5553-17/2018 dated 12.03.2019.
- b) A Grievances Redressal Committee headed by Establishment Department consisting of representatives from Finance, Law and concerned administrative departments may be constituted. The Grievances Redressal Committee would report to the same ministerial committee.
- c) All the positions created by Finance Department for all the regularized projects under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 shall be created/placed at the strength of attached formations of respective administrative departments except the positions of Planning Cells.

Implementing Department: Establishment

2. I am to request that an implementation report of the Cabinet decision as required under Rule 2-13 of the Khyber Pakhtunkhwa Government Rules of Business, 1988, may kindly be furnished on top priority basis to the Cabinet Section, Administration Department.

Yours faithfully,

(T.S.J. MUHAMMAD)
SECTION OFFICER (CABINET)

BRIDGE NO. 10, DAFI, ISHER.

- Copy to
1. P.S. to Secretary Administration Department
 2. P.A. to Deputy Secretary (Cabinet) Administration Department

SECTION OFFICER (CABINET)

Attached
Secy
Plann
Dept

BETTER COPY

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMN: DEPARTMENT
(CABINET WING)**

No. SOC(E&AD)9-15/2019

Dated Peshawar the 14th May, 2019

To

The secretary to govt: of Khyber Pakhtunkhwa,
Establishment Department.

Subject:

DECISION OF MEETING OF THE PROVINCIAL CABINET DATED
09-05-2019.

Dear sir,

I am directed to forward herewith the following decision of the meeting of the provincial cabinet held on 09-05-2019 under the Chairmanship of Chief Minister Khyber Pakhtunkhwa for implementation.

<p>ADDITIONAL ITEM NO.08 SETTLEMENT OF ANOMALIES ARISING OUTING THE WAKE OF PROMULGATION OF THE KHYBER PAKHTUNKHWA EMPLOYEES (REGULARIZATION OF SERVICES), ACT, 2018</p> <p>DECISION OF THE CABINET:</p> <p>i) The cabinet approved recommendation of the ministerial committee as under:- With regard to contingent /fixed day / daily wages staff appointed / recruited by the departments prior to promulgation of the Khyber Pakhtunkhwa employees (regularization of services), Act, 2018 without adopting codal formalities under project policy. It was agreed that these contingents employees. 35 in number (31 in P&D and 04 in home Department) may be given one-time relaxation for regularization of their services subject to certification of their credentials and suitability by the concerned government department provided that is should not be quoted as precedent to follow in other cases rather a special despatch to the contingent paid employees vide order of Peshawar high Court decision given in the Writ Petition No.6553-P/2018 dated 12-03-2019.</p> <p>ii) A grievances redressal committee headed by Establishment Department consisting of representative from finance, Law and concerned administrative departments may constituted. The grievances redressal committee would report to the same ministerial committee.</p> <p>iii) All the positions created by Finance Department for all the regularized projects under the Khyber Pakhtunkhwa Employees (Regularization of Services), Act, 2018 shall be created / placed at the strength of attached formations of respective administrative departments except the position of the planning cells. Implementing department Establishment.</p>
--

2. I am to request that an implementation report of the cabinet decision as required under rule-II(2) of the Khyber Pakhtunkhwa government rules of business, 1985 may kindly be furnished on top priority basis.

Yours faithfully,

(Taj Muhammad)
Section Officer (Cabinet)

Ends: No. & Date Even.

Copy to:

1. PS to Secretary Administration Department.
2. P.A to Deputy Secretary (Cabinet) Administration Department

Section Officer (Cabinet)

Subject

Annex-II

(7)

19/10

MINUTES OF THE MEETING OF COMMITTEE FOR SETTLEMENT OF ANOMALIES ARISING OUT OF PROMULGATION OF THE KHYBER PAKHTUNKHA EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2018

A meeting of the Ministers' Committee constituted in pursuance of Cabinet decision dated 26.02.2019 on the subject was held on 30.04.2019 at 1230 hrs under the chairmanship of Minister Finance. The following attended:-

- i. Mr. Shaukat Yousafzai,
Minister Information.
- ii. Syed Jamal ud Din Shah,
Secretary Establishment
- iii. Mr. Shakeel Qadir Khan,
Secretary Finance.

02. At the outset, the chair welcomed the participants and Secretary Establishment Department briefed the forum in detail regarding the issues arising out in the wake of promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 with particular reference to sifting of issue of regularized employees whose regularization orders are not issued yet and the matter pertaining to contingent/fixed pay/daily wages. He further highlighted the decisions of the Peshawar High Court dated 12.03.2019 passed in Writ Petition No. 6553-P/2018 wherein the Peshawar High Court has directed the respondents to regularize the services of Petitioners i.e. MNCH employees within timeframe thirty (30) days.

03. It is worth mentioning that the Ministerial Committee earlier agreed that the Anomaly Committee, created under the Chairmanship of the Secretary, Establishment Department, under the provision of the Regularization of Services Act, 2018, should continue to look at this issue and conclude its recommendations within one year of the promulgation of the Act as mandated. Around 80% of employees regularized have already been adjusted outside of the Secretariat and thus the committee needs deal with the remaining 20% of employees. The committee also proposed to work on an improved regularization criteria for the future.

04. After deliberating upon the issues, the committee unanimously agreed to recommend as under:-

Recommendations:-

Issues of Health, P&D, Local Government, ST& IT, Sports, Population Welfare, Home, Industries, Agriculture, Food, Relief & Rehabilitation were discussed in detail and recommendations were made (Annex-I).

- i. With regard to contingent/fixed pay/daily wages staff appointed/recruited by the departments prior to

Attested
Section Officer (IA)
Planning & Dev: Deptt.
K.P.K.

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29/05/16

promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 without adopting codal formalities under Project Policy, it was agreed that those contingent employees 35 in number of P&D and Home Departments may be given one time relaxation for regularization of their services subject to certification of their credentials and suitability by the concerned Government Departments provided that it should not be quoted as precedent to follow in other cases rather as a special dispensation to the contingent paid employees vide order of Peshawar High Court decision given in the Writ Petition No. 6553-P/2018 dated 12.03.2019 MNCM (employees of Health Department).

- ii. To resolve any further issues arising out in the implementation of the *ibid* Act from time to time a Grievances Redressal Committee headed by Establishment Department consisting of representative from Finance, Law & concerned Administrative Departments may be constituted. The Grievances Redressal Committee would report to the same Ministerial Committee that dealt with the resolution of Anomalies, and gets its decisions endorsed by the same.
- iii. The Committee also recommended that all the positions created by Finance Department for all of the regularized projects under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 shall be created/placed at the strength of attached formations of respective Administrative Departments except the positions of Planning Cells which fall under the Provincial Planning Service (PPS) and Engineering Wing of Sports Department. Finance Department will take further appropriate action accordingly.

05. The meeting ended with a vote of thanks to and from the Chair.

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 Section Officer (Lit)
 Planning & Dev. Dept
 K.P.K.

THE NWFP CIVIL SERVANTS ACT, 1973
(N.W.F.P. Act No. XVIII of 1973)

¹An Act to regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of the North West Frontier Province.

Preamble- WHEREAS it is expedient to regulate by law, the appointment of persons to, and the terms and conditions of service of persons in, the service of the North West Frontier Province, and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

1. Short title, application and commencement:- (1) This Act may be called the North West Frontier Province Civil Servants Act, 1973.

(2) This section and section 25, shall apply to persons employed on contract, or on work charged basis, or who are paid from contingencies, and the remaining provisions of this Act including this section, shall apply to all civil servants wherever they may be.

3) It shall come into force at once.

CHAPTER-I

PRELIMINARY

2. Definitions:- (1) In this Act, unless the context otherwise requires the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "ad hoc appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment, pending recruitment in accordance with such method,
- (b) "civil servant" means a person who is a member of a civil ^{on contract} service of the Province, or who holds a civil post in connection with the affairs of the Province, but does not include-
- (i) a person who is on deputation to the Province from the Federation or any other Province or other authority;
- (ii) a person who is employed on contract, or on work charged basis, or who is paid from contingencies; or
- (iii) a person who is a "worker" or "workman" as defined in the Factories Act, 1934 (Act XXV of 1934), or the Workman's Compensation Act, 1923 (Act VIII of 1923);
- (c) "Government" means the Government of the North-West Frontier Province.

¹ Published in the NWFP Government Gazette Extraordinary dated 12-11-1973 at pages 287 N-287V

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Special Officer (A)
Planning & Dev. Dept.
N.W.F.P.

- (d) "Initial appointment" means appointment made otherwise than by promotion or transfer;
- (e) "Pay" means the amount drawn monthly by a civil servant as pay, and includes special pay, personal pay and any other emoluments declared by the prescribed authority to be paid ;
- (f) "Permanent post" means a post sanctioned without limit of times;
- (g) "Prescribed" means prescribed by rules;
- (h) "Province "means the North West Frontier Province;
- (i) "rules" means rules made or deemed to have been made under this Act ;
- (j) "Selection authority" means the North-West Frontier Province Public Service Commission, a departmental selection board, departmental selection committee or other authority or body on the recommendations of, or in consultation with which any appointment or promotion, as may be prescribed, is made;
- (k) "temporary post" means a post other than a permanent post.

(2) For the purpose of this Act, an appointment, whether by promotion or otherwise, shall be deemed to have been made on regular basis if it is made in the prescribed manner.

CHAPTER-II

TERMS AND CONDITIONS OF SERVICE OF CIVIL SERVANTS

3. **Terms and Conditions:-** The terms and conditions of service of a civil servant shall be as provided in this Act and the rules.

4. **Tenure of office of civil servants:-** Every civil servant shall hold office during the pleasure of the Governor.

5. **Appointment:-** Appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorized by the Governor in that behalf.

6. **Probation:-** (1) An initial appointment to a service or post referred to in section 5, not being an ad hoc appointment, shall be on probation as may be prescribed.

(2) Any appointment of a civil servant by promotion or transfer to a service or post may also be made on probation as may be prescribed.

(3) Where, in respect of any service or post, the satisfactory completion of probation includes the passing of a prescribed examination, test or course or successful completion of any training, a person appointed on probation to such service or post who,

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[Signature]
Section Officer (Lit)
Planning & Dev. Dept.
K.P.K.

(11)

before the expiry of the original or extended period of his probation, has failed to pass such examination or test or to successfully complete course or the training shall, except as may be prescribed otherwise-

- (a) if he was appointed to such service or post by initial recruitment, be discharged; or
- (b) if he was appointed to such service or post by promotion or transfer, be reverted to the service or post from which he was promoted or transferred and against which he holds a lien or, if there be no such service or post, be discharged:

Provided that in the case of initial appointment to a service or post, a civil servant shall not be deemed to have completed his period of probation satisfactorily until his character and antecedents have been verified as satisfactory in the opinion of the appointing authority.

7. Confirmation :- (1) A person appointed on probation shall, on satisfactory completion of his probation, be eligible for confirmation in a service or, as the case may be, a post as may be prescribed.

(2) A civil servant promoted to a post ²[] on regular basis shall be eligible for confirmation after rendering satisfactory service for the period prescribed for confirmation therein.

(3) There shall be no confirmation against any temporary post

(4) A civil servant who, during the period of his service, was eligible to be confirmed in any service or against any post retires from service before being confirmed shall not, merely by reason of such retirement, be refused confirmation in such service or post or any benefits accruing there-from.

(5) Confirmation of a civil servant in a service or post shall take effect from the date of occurrence of permanent vacancy in that service or post or from the date of continuous officiation, in such service or post, whichever is later.

8. Seniority:- (1) For proper administration of a service, cadre or ³[post], the appointing authority shall cause a seniority list of the members for the time being of such service, cadre or ⁴[post] to be prepared, but nothing herein contained shall be construed to confer any vested right to a particular seniority in such service, cadre or ⁵[post] as the case may be.

(2) Subject to the provisions of sub-section (1), the seniority of a civil servant shall be reckoned in relation to other civil servants belonging to the same service or ⁶[cadre] whether serving the same department or office or not, as may be prescribed.

² The words "or grade" omitted by NWFP Ordinance No. IV of 1985.
³ The word "grade" substituted by NWFP Ordinance No. IV of 1985.
⁴ The word "grade" substituted by NWFP Ordinance No. IV of 1985.
⁵ The word "grade" substituted by NWFP Ordinance No. IV of 1985.
⁶ The word "grade" substituted by NWFP Ordinance No. IV of 1985.

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Section Officer (Lit)
 Planning & Dev. Dept.
 N.F.K.

(3) Seniority on initial appointment to a service, ⁷[cadre] or post shall be determined as may be prescribed.

⁸(4) Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post;

Provided that civil servants who are selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter-se-seniority as in the lower post.

⁹(5) The seniority lists prepared under sub-section(1), shall be revised and notified in the official Gazette at least once in a calendar year, preferably in the month of January.

9. Promotion:-(1) A civil servant possessing such minimum qualifications as may be prescribed, shall be eligible for promotion to a ¹⁰[higher] post for the time being reserved under the rule for departmental promotion in ¹¹[] the service or cadre to which he belongs.

(2) A post referred to in sub-section (1) may either be a selection post or a non selection post to which promotion shall be made as may be prescribed-

- (a) in the case of a selection post, on the basis of selection on merit; and
- (b) in the case of non-selection post, on the basis of seniority-cum-fitness.

10. Posting and Transfer:- Every civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government, or any Provincial Government or Local authority, or a corporation or body set up or established by any such Government:

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region:

Provided further that, where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

11. Termination of service:- (1) The service of a civil servant may be terminated without notice-

- (i) During the initial or extended period of his probation:

Provided that, where such civil servant is appointed by promotion on probation or, as the case may be, is transferred from one [service], cadre or post to another [service], cadre or post, his service shall not be so terminated so long as he

⁷ The word "grade" substituted by NWFP Ordinance No. IV of 1985.
⁸ Sub section (4) of Sec-8 substituted by NWFP Ordinance No. IV of 1985.
⁹ Sub section (5) of Sec-8 added by NWFP Act No. I of 1989
¹⁰ The word "higher" inserted by NWFP Ordinance No. IV of 1985.
¹¹ The words "the higher grade of" omitted by NWFP Ordinance No. IV of 1985.

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[Signature]

to provide for the appointment and regularization of services of certain employees appointed on adhoc basis against civil posts and contract basis against project posts in the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to provide for the appointment and regularization of services of certain employees appointed on adhoc basis against civil posts and contract basis against project posts in the Province of the Khyber Pakhtunkhwa;

It is hereby enacted as follows:

1. Short title, application and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2013.

(2) It shall apply to all the employees as defined in clause (e) of subsection (1) of section 2 of this Act.

(3) It shall come into force at once.

2. Definitions.---(1) In this Act, unless the context otherwise requires;

(a) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;

(b) "contract appointment" means the appointment of a duly qualified person, for a specific period, made against project posts, in a prescribed manner;

(c) "Departmental Selection Committee" means a Departmental Selection Committee, constituted for the purpose of making selection for initial recruitment to civil post under a Government Department or office of Government;

(d) "Government" means the Government of the Khyber Pakhtunkhwa;

(e) "employees" mean duly qualified,-

(i) one hundred and fifty-eight (158) District Specialists of Health Department, who are appointed on adhoc basis against civil posts w.e.f. 4th July, 2017 and holding such civil posts till the commencement of this Act; and

(ii) persons, who are appointed in the projects on contract basis in accordance with the project policy;

Asst. Commr. Peshawar
Govt. of K.P.K.

Attested

Section Officer (L1)
Planning & Dev. Dept.
K.P.K.

- (f) "Government Department" means a Government Department, as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985;
- (g) "law or rule" means the law or rule, for the time being in force, governing the selection and appointment of civil servants;
- (h) "project" means a perpetual nature project, the continuation of which and conversion to regular budget is essential for service delivery duly identified by the Departments and reflected in the Schedule;
- (i) "civil post" means a civil post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission;
- (j) "project post" means a post in the project; and
- (k) "Schedule" means a Schedule appended to this Act.

Asst. Secy. Govt. of Khyber Pakhtunkhwa
 Law Department

11

(2) The expression "ad hoc appointment" shall have the same meaning as is assigned to it in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).

3. Regularization of services of ad hoc employees.---Notwithstanding anything contained in any law or rules, the employees at sub-clause (i) of clause (e) of sub-section (1) of section 2 of this Act, appointed on ad hoc basis against civil posts and holding such civil posts till the commencement of this Act, shall be deemed to have been validly appointed on regular basis, from the date of commencement of this Act, subject to verification of their qualifications and other credentials by the concerned Government Department.

4. Regularization of services of project employees.---Notwithstanding anything contained in any law or rules, the employees at sub-clause (ii) of clause (e) of sub-section (1) of section 2 of this Act, appointed on contract basis against project posts and holding such project posts till the commencement of this Act, shall be deemed to have been validly appointed on regular basis from the date of commencement of this Act, subject to verification of their qualifications and other credentials by the concerned Government Department.

Provided that the terms and conditions of services of employees reflected at S.No.5 of the Schedule shall further be governed under the National Disaster Management Authority Act, 2010 (Act No. XXIV of 2010) and Regulations made thereunder; and the terms and conditions of services of employees reflected at S.No.6 & 7 of the Schedule shall be governed under the Khyber Pakhtunkhwa Emergency Rescue Services Act, 2012 (Khyber Pakhtunkhwa Act No. XV of 2012).

5. General conditions for regularization.---For the purpose of regularization of the employees under this Act, the following general conditions shall be observed:

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 Section Officer (L1)
 Planning & Dev. Dept
 K.P.K.

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of

- (i) the service promotion quota of all service cadres shall not be affected;
- (ii) the employees shall possess the same qualification and experience as required for a regular post;
- (iii) the employees have not resigned from their services or terminated from service on account of misconduct, inefficiency or any other grounds before the commencement of this Act; and
- (iv) the services of such employees shall be deemed to have been regularized only on the publication of their names in the Official Gazette.

Asst. Secy. to Govt.
 General Administration
 Law, Mysore

6. **Seniority.**—(1) Except the employees mentioned in the proviso to section 4 of this Act, whose services are to be regulated by their respective laws and rules, all other employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act, shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission or Departmental Selection Committee, as the case may be, made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

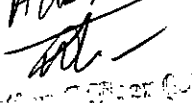
(2) The seniority inter-se of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

7. **Removal of difficulties.**—If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister may make such order not inconsistent with the provisions of this Act as may appear to it to be necessary for the purpose of removing such difficulty:

Provided that no such powers shall be exercised after the expiry of one year from the coming into force of this Act.

8. **Overriding effect.**—Notwithstanding anything to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

Attached

 Secretary to Government
 General Administration
 Mysore



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 22nd FEBRUARY, 2018

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
PLANNING AND DEVELOPMENT DEPARTMENT

NOTIFICATION

Peshawar, Dated: 22nd February, 2018

NO. SO(E)P&D/6-1/SR/PPS/2018.- In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

THE KHYBER PAKHTUNKHWA PROVINCIAL PLANNING SERVICE RULES, 2018.

1. **Short title application and commencement.**--- (1) These rules may be called the Khyber Pakhtunkhwa Provincial Planning Service Rules, 2018.

(2) These rules shall apply to the recruitment and promotion to the posts in Provincial Planning Service.

(3) These rules shall come into force at once.

2. **Definitions.**--- In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

(a) "appointing authority" means the appointing authority as specified in rule 6 of these rules;

(b) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;

(c) "Government" means the Government of the Khyber Pakhtunkhwa Province;

(d) "Department" means the Planning and Development Department;

(e) "Departmental Examination" means the prescribed examination to be conducted by the Department for confirmation within probationary period or for promotion to higher post, as the case may be;

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Planning & Dev. Deptt.
K.P.K.

- (f) "Departmental Training" means any training prescribed by Government, the successful completion whereof is necessary for promotion to BS-19 and 20 or any change in the training required from time to time,
- (g) "Schedule" means the Schedule appended to these rules;
- (h) "Service" means the Provincial Planning Service; and
- (i) "Secretariat" means the Civil Secretariat as defined in clause (r) of rule 2 of the Khyber Pakhtunkhwa Government Rules of Business, 1985.

3. **Constitution of the Service.**--- The Service shall consist of the posts as specified in Schedule-I and such other posts as may be added to it from time to time.

4. **Method of recruitment.**--- (1) The method of recruitment, minimum qualification, age limit and other matters related thereto for the Service shall be such as specified in Schedule-II.

(2) Initial recruitment to the Service shall be made through an examination conducted by the Commission.

(3) The standard and syllabus of examination for the Service shall be such as specified in Schedule-III.

5. **Training.**--- On appointment to the post borne in the Service in BPS-17 via initial recruitment, every officer so appointed shall successfully complete six months mandatory training at any academy or institute decided by Government as per Module specified in Schedule-IV. The training shall be followed by a Departmental Examination as specified in Schedule-V, to be conducted by the Academy or institute, as the case may be.

6. **Appointing Authority.**--- The Chief Secretary, Khyber Pakhtunkhwa shall be the appointing authority for posts borne on the Service in BPS-17.

7. **Savings.**--- In all other matters not expressly provided for in these rules, the members of the Service shall be governed by the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and any other rules pertaining to the terms and conditions of service made or deemed to have been made under the Khyber Pakhtunkhwa Civil Servants Act, 1973.

8. **Transitional.**--- The seniority position of various officers appointed in planning cadres of various Departments and brought on the strength of the Service on coming into force of these rules shall be considered from the date of their regular appointment to posts in their present Basic Scales of pay:

Provided that where two or more civil servants have been appointed to their present Basic Scale on the same day, the older in age shall be considered senior.

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[Signature]
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K.P.K.

THE KHYBER PAKHTUNKHWA EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2018.

(KHYBER PAKHTUNKHWA ACT NO. X OF 2018)

[First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 7th March, 2018].

**AN
ACT**

to provide for the appointment and regularization of services of certain employees appointed on adhoc basis against civil posts and contract basis against project posts in the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to provide for the appointment and regularization of services of certain employees appointed on adhoc basis against civil posts and contract basis against project posts in the Province of the Khyber Pakhtunkhwa;

It is hereby enacted as follows:

1. Short title, application and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018.

(2) It shall apply to all the employees as defined in clause (e) of subsection (1) of section 2 of this Act.

(3) It shall come into force at once.

2. Definitions.--- (1) In this Act, unless the context otherwise requires;

- (a) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;
- (b) "contract appointment" means the appointment of a duly qualified person, for a specific period, made against project posts, in a prescribed manner;
- (c) "Departmental Selection Committee" means a Departmental Selection Committee, constituted for the purpose of making selection for initial recruitment to civil post under a Government Department or office of Government;

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Section Officer (S-1)
Planning & Dev. Dept.
K.P.K.

- (d) "Government" means the Government of the Khyber Pakhtunkhwa;
- (e) "employees" mean duly qualified,-
- (i) one hundred and fifty-eight (158) District Specialists of Health Department, who are appointed on adhoc basis against civil posts w.e.f. 4th July, 2017 and holding such civil posts till the commencement of this Act; and
- (ii) persons, who are appointed in the projects on contract basis in accordance with the project policy;
- (f) "Government Department" means a Government Department, as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985;
- (g) "law or rule" means the law or rule, for the time being in force, governing the selection and appointment of civil servants;
- (h) "project" means a perpetual nature project, the continuation on which and conversion to regular budget is essential for service delivery duly identified by the Departments and reflected in the Schedule;
- (i) "civil post" means a civil post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission;
- (j) "project post" means a post in the project; and
- (k) "Schedule" means a Schedule appended to this Act.

(2) The expression "adhoc appointment" shall have the same meaning as is assigned to it in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).

3. Regularization of services of adhoc employees.---Notwithstanding anything contained in any law or rules, the employees at sub-clause (i) of clause (e) of sub-section (1) of section 2 of this Act, appointed on adhoc basis against civil posts and holding such civil posts till the commencement of this Act, shall be deemed to have been validly appointed on regular basis, from the date of commencement of this Act,

Attested

 Section Officer (L1)
 Planning & Dev: Deptt
 K.P.K.

subject to verification of their qualifications and other credentials by the concerned Government Department.

4. Regularization of services of project employees.---Notwithstanding anything contained in any law or rules, the employees at sub-clause (ii) of clause (e) of sub-section (1) of section 2 of this Act, appointed on contract basis against project posts and holding such project posts till the commencement of this Act, shall be deemed to have been validly appointed on regular basis from the date of commencement of this Act, subject to verification of their qualifications and other credentials by the concerned Government Department:

Provided that the terms and conditions of services of employees reflected at S.No.5 of the Schedule shall further be governed under the National Disaster Management Authority Act, 2010 (Act No. XXIV of 2010) and Regulations made thereunder; and the terms and conditions of services of employees reflected at S.No.6 & 7 of the Schedule shall be governed under the Khyber Pakhtunkhwa Emergency Rescue Services Act, 2012 (Khyber Pakhtunkhwa Act No. XV of 2012).

5. General conditions for regularization.---For the purpose of regularization of the employees under this Act, the following general conditions shall be observed:

- (i) the service promotion quota of all service cadres shall not be affected;
- (ii) the employees shall possess the same qualification and experience as required for a regular post;
- (iii) the employees have not resigned from their services or terminated from service on account of misconduct, inefficiency or any other grounds before the commencement of this Act; and
- (iv) the services of such employees shall be deemed to have been regularized only on the publication of their names in the Official Gazette.

6. Seniority.---(1) Except the employees mentioned in the proviso to section 4 of this Act, whose services are to be regulated by their respective laws and rules, all other employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act, shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission or Departmental Selection Committee, as the case may be, made before

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(2)

the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority inter-se of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

7. Removal of difficulties.---If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister may make such order not inconsistent with the provisions of this Act as may appear to it to be necessary for the purpose of removing such difficulty:

Provided that no such powers shall be exercised after the expiry of one year from the coming into force of this Act.

8. Overriding effect.---Notwithstanding anything to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

Attested
[Signature]

Section Officer (Lit)
Planning & Dev. Deptt:
K.P.K.

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SCHEDULE
See section 2(1)(h)(k)

1. Capacity Building of Planning and Development Department.
2. Establishment of M&E System in Khyber Pakhtunkhwa.
3. Sustainable Development Unit, Planning and Development Department.
4. Urban Policy Unit, Planning and Development Department.
5. Provincial Reconstruction, Rehabilitation & Settlement Authority under Provincial Disaster Management Authority.
6. Establishment of Emergency Rescue Services (Rescue 1122) in 16 Districts.
7. Establishment of Planning, Monitoring & Evaluation Wing in ERS (Rescue 1122) Headquarter.
8. Roll Back Malaria Control Program.
9. Prime Minister's Program for prevention and control of Hepatitis.
10. Establishment of Financial Management Cell in Health Department.
11. Establishment of Safe Blood transfusion.
12. Strengthening of TB Control Program Khyber Pakhtunkhwa.
13. Establishment of Procurement Cell in office of DG Health Services, Peshawar.
14. Mother, Neonatal and Child Health (MNCH) Program in Khyber Pakhtunkhwa.

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Section Officer (Lit)
Planning & Dev. Deptt.
K.P.K.

(23)

15. Social Health Protection Initiative for Khyber Pakhtunkhwa.
16. Establishment of Bacha Khan Medical College Mardan.
17. Integrated HIV, Hepatitis and Thalassemia Control Program.
18. Construction of Shaheed Mohtarama Benazir Bhutto Children Hospital Mardan.
19. Higher Education Management Information System (HEMIS) Cell.
20. Project Management Unit (PMU) for implementation of BS Program and Special Initiatives.
21. Computerization of Arms License.
22. Prison Management Information System.
23. Development of Common Application for Government Departments.
24. ICT Infrastructure for Government of Khyber Pakhtunkhwa.
- 24A. IT Support for improvement of Health Service Delivery.
- 24B. IT Professional Training Centre.
25. Strengthening of Planning Cell at Elementary & Secondary Education Department.
26. Provision of free text book to all students of Khyber Pakhtunkhwa upto Intermediate level (Phase-XIV).
27. Strengthening of Planning Cell at Industries Department.
28. Establishment of Special Media Cell in the Directorate of Information.
29. Strengthening of Information Department.

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Section Officer
Planning & Development
K.P.K.

(24)

30. Establishment of three FM Stations at Kohat, Swat and Abbottabad.
31. Establishment of Planning Cell at Local Government and Rural Development Department.
32. Retirement Benefit and Death Compensation Cell.
33. Automation of Pension Payment System (APPS).
34. Energy Monitoring Unit.
35. Establishment of Planning Cell in Food Department.
36. Automation of Food Department.
37. Operationalization of Redesigned Energy and Power Department.
38. Establishment of Planning Cell in Energy and Power Department.
39. Computerization of Land Record.
40. Creation of MRS Cell in C&W Department.
41. Enhancement of existing facilities in MIS/GIS for C&W Department.
42. Strengthening of Planning Cell and Monitoring of Developmental Projects of Agriculture Department.
43. Project Coordination Unit (PCU) for implementation of Law and Order Initiative in Khyber Pakhtunkhwa.
44. Afghan Management and Repatriation Cell at Home Department.
45. Traffic Control Management System and FM Radio 693-120173.
46. Strengthening of Prosecution Directorate, PCMC and Planning Cell at Home Department.

Attested
[Signature]
Section Officer (Lia)
Planning & Dev. Deptt:
K.P.K.

- 47. Establishment of 100 Family Welfare Centers.
- 48. Establishment of Population and Research Training Institute and Social Mobilization.
- 49. Value Addition/Research and Development works on Ore Minerals in Khyber Pakhtunkhwa.
- 50. Establishment of Model Coal Mine at Shāhkot District Nowshera.
- 51. Establishment of Zoo for Peshāwar Division.
- 52. Development and Management of National Park in Khyber Pakhtunkhwa.
- 53. Conservation and Management of Wildlife in Central and Northern Division.
- 54. Establishment of Monitoring, Evaluation, Grievance and Inquiry Cell in Administrative Department.
- 55. Establishment of Climate Change Cell for Multilateral Environmental Agreements.
- 56. Carbon Stock Assessment in Khyber Pakhtunkhwa.
- 57. Introduction of Range Management Initiatives in Khyber Pakhtunkhwa.
- 58. Establishment of Engineering Wing in Sports, Tourism, Archeology, Youth Affairs and Museums Department.

Asst. Secy. Deptt. of
 Govt. of Khyber Pakhtunkhwa
 Peshawar

**BY ORDER OF MR. SPEAKER
 PROVINCIAL ASSEMBLY OF KHYBER
 PAKHTUNKHWA**

**(NASRULLAH KHAN KHATTAK)
 Secretary
 Provincial Assembly of Khyber Pakhtunkhwa**

Attested

 Section Officer (Ad)
 Planning & Dev. Deptt.
 KPK

PLANNING & DEVELOPMENT DEPARTMENT

No. SO(E)P&D/3-4/SLs/PPS/2022.
Dated Peshawar, July 13, 2022.

Annex VI

To: The Secretary to Govt of Khyber Pakhtunkhwa,
Establishment Department.

Attention: Section Officer (R-III).

Subject: **DEPARTMENTAL APPEAL AGAINST IMPUGNED NOTIFICATION
NO. SO(E)P&D/3-4/PPS/SLS DATED 25-05-2022 WHEREBY THE
APPELANT HAS BEEN ILLEGALLY PLACED BELOW
REGULARIZED & ABSORBED EMPLOYEES IN SENIORITY LIST
OF BS-17 PPS OFFICERS.**

Dear Sir,

I am directed to refer to Establishment Department letter No. SOR-III (E&AD)5-9/2022, dated 23.06.2022 on the subject cited above and to inform that the observations mentioned in the instant departmental appeal were made on tentative seniority list of PPS BS-17 issued on 11.04.2022, which were examined in detail and on the basis of the following, her observations were regretted being not covered under the rules/policy. Moreover, final seniority list was issued after approval of competent authority i.e. Secretary, Establishment Department:

"Her recommendations from Public Service Commission were received after the commencement of Regularization Act 2018, therefore, the officer is entitled for her seniority from the date of her appointment. Moreover, the officers of Merged Areas, erstwhile FATA and project employees regularized under an Act have been given seniority as per advice of Establishment Department/Act/Rules, therefore, the request of the officer concerned cannot be entertained.

I am therefore, directed to request that the application/appeal of the officer may kindly be filed, please.

Yours faithfully,


(SONA KHAN) 13/7/2022
Section Officer (Estt:)

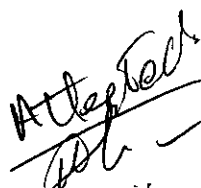
A.S

Endst. Of even Number & Date.

Copy forwarded to the:

1. PS Secretary, P&D Department.
2. PA to Additional Secretary-II, P&D Department.


Section Officer (Estt:)
13/7/2022


Section Officer (Estt:)
Planning & Devt Deptt:
13/7/2022


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**GOVERNMENT OF KHYBER PAKHTUNKHWA
PLANNING & DEVELOPMENT DEPARTMENT**

AUTHORITY LETTER

Mr. Assad Ullah Khan, Section Officer (Litigation) of Planning & Development Department is hereby authorized to pursue / defend court cases of Service Tribunal, Khyber Pakhtunkhwa and Civil / District Courts as well as submit Para-wise Comments / Replies in the cases duly sworn on affidavit in the courts on behalf of Additional Chief Secretary and Secretary P&D Department.


**DEPUTY SECRETARY
P&D Department**