

# FORM OF ORDER SHEET

Court of \_\_\_\_\_

**Appeal No.** \_\_\_\_\_

**1733/2023**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/08/2023	<p>The appeal of Mr. Muhammad Haroon Qaiser is presented today by Mr. Muhammad Asjad Pervez Abbasi Advocate. It is fixed for preliminary hearing before Single Bench at Abbottabad on</p>

By the order of Chairman

  
REGISTRAR

**BEFORE THE KHYBER PAKHTUNKAWA SERVICE TRIBUNAL**

**PESHAWAR**

Appeal No. 1733/2023

Muhammad Haroon Qaisar, Sub Division Officer, Building Project Sub  
Division Haripur.

...APPELLANT

V/S

Government of khyber Pakhtunkhwa & Others

...RESPONDENTS

**SERVICE APPEAL**

**INDEX**

S.No.	Description of Document	Annexure	Page No.
1.	Appeal alongwith Affidavit		1-5
2.	Copy of the Relevant Documents	"A"	6-7
3.	Copy of the Seniority List	"B"	8-10
4.	Copy of the Notification Dated 07-03-2018	"C"	9-11
5.	Copy of the Judgment in Service Appeal No 1330/2010 dated 02-03-2016 and Copy of the Judgment of Writ Petition No 6-P/2019 dated 06-04-2021	"D"	12-38
6.	Copy of the up Gradation Orders	"E"	36-41
7.	Copy of the Departmental Appeal	"F"	42-43
8.	Vakalat Nama		44

...APPELLANT

Through:

Dated 21/8/23

(Sardar Muhammad Asif)

&  
(Muhammad Asjad Pervez Abbasi)

Advocate High Court,

Abbottabad

①

**BEFORE THE KHYBER PAKHTUNKAWA SERVICE TRIBUNAL**  
**PESHAWAR**

Appeal No. 1733/2023

Muhammad Haroon Qaisar, Sub Division Officer, Building Project Sub  
Division Haripur.

...APPELLANT

V/S

1. The Secretary, Government of Khyber Pakhtunkawa through Secretary  
C&W Civil Secretariat, Peshawar
2. The Chief engineer, C&W Khyber Pakhtunkhwa Peshawar
3. The Chief engineer, C&W Abbottabad
4. The Secretary, Government of Khyber Pakhtunkhwa, Finance Department,  
Civil Secretariat, Peshawar.

...RESPONDENTS

---

APPEAL U/S 4 OF KPK SERVICE TRIBUNAL ACT, 1974 FOR GRANT OF  
SENIOR SCALE/SELECTION GRADE (BS-11) WHEREBY THE  
DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN  
DECIDED WITHIN STIPULATED PERIOD AND FOR IMPLEMENTATION  
OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL JUDGMENT DATED  
06-04-2021; PESHAWAR HIGH COURT DECISION DATED 29-11-  
2021, AND OTHERS DECISION/JUDGMENTS ISSUED BY THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL, BEING SIMILARLY PLACED.

---

**PRAYER:**

ON THE ACCEPTANCE OF THE INSTANT APPEAL, THE RESPONDENTS  
MAY GRACIOUSLY BE DIRECTED TO GRANT SENIOR SCALE GRADE  
(BS-16) WITH ALL BACK BENEFITS AND PETITIONER BE TREATED AT  
PAR WITH OTHER SIMILARLY PLACED EMPLOYEES AND THE  
JUDGMENTS/DECISION OF THE KPK SERVICE TRIBUNAL BE  
IMPLEMENTED WITH ITS SPIRIT AND ANY OTHER RELIEF WITH THE

HONORABLE COURT DEEMS FIT AND NECESSARY MAY ALSO BE GRANTED IN FAVOR OF THE APPELLANT.

---

**Respectfully Sheweth:-**

The Facts Grounds leading to the instant Appeal are as under:-

1. That, the appellant was appointed as Sub Engineer (BS-11) on 17-03-1988 and was posted in the office of XEN C & W, Division, Haripur. **(Copy of the relevant documents is Annexed as Annexure "A")**
2. That, the appellant has passed departmental professional examination and was placed at serial No # 44 of seniority list. **(Copy of the seniority list is Annexed as Annexure "B")**
3. That, the Government of Khyber Pakhtunkhwa, Finance Department Peshawar vide notification No. SO(FR) FD/7-13/2017/0253 dated 07-03-2018, in pursuance of recommendations of up gradation committee and approval granted by competent authority, upgraded the post of Sub Engineers from BS-11/12 to BS-16 to the personal's having 10 year or more service and their credit in the same scale. **(Copy of the notification dated 07-03-2018 is Annexed as Annexure "C")**
4. That, in pursuance of the above mention notification, number of Sub Engineer were upgraded by the government of Khyber pakhtunkhwa but most of the eligible employees were ignored deliberately and malafidely.
5. That, it is pertinent to mention here, the discriminated employees knocked the door of the Khyber pakhtunkhwa Service Tribunal and whereby the appeals so filed were graciously allowed by the KPK Public Service Tribunal Peshawar

and thereafter upheld by the apex court. **(Copy of the judgment in service Appeal No 1330/2010 dated 02-03-2016 and Copy of the judgment of Writ Petition No. 6-P/2019 dated 06-04-2021 are Annexed as Annexure "D").** Other judgments of similar nature will be provided at the time of arguments.

6. That, it is worth mentioning here, despite notification and expressive direction of the courts to extend the benefit of its judgment to order Sub Engineers who fulfill the criteria of being upgraded as senior scale grade (BS-16), the authorities are reluctant to implement the same.
7. That, the appellant is not only similarly placed to the Engineers upgraded by the authorities but also senior to most of the Sub Engineers. Thus, the appellant is discriminated by not being extended the same benefit. **(Copy of the up gradation Orders are Annexed as Annexure "E")**
8. That, the appellant has filled departmental appeal against the inaction of the department to upgrade appellant but despite passing of the prescribed time period has yet not been decided. **(Copy of the departmental appeal is Annexed as Annexure "F")**
9. That, the act of the respondent is in violation of article 4 & 25 of the constitution of Islamic Republic of Pakistan 1973,
10. That, appellant is entitled to the same relief according to the principle of consistency, equality and natural justice.
11. That, the other points will be raised with prior permission from the court as the time of hearing.

4

IT IS THEREFORE, HUMBL Y PRAYED THAT ON THE ACCEPTANCE OF THE INSTANT APPEAL, THE RESPONDENTS MAY GRACIOUSLY BE DIRECTED TO GRANT SENIOR SCALE GRADE (BS-16) WITH ALL BACK BENEFITS AND PETITIONER BE TREATED AT PAR WITH OTHER SIMILARLY PLACED EMPLOYEES AND THE JUDGMENTS/DECISION OF THE KPK SERVICE TRIBUNAL BE IMPLEMENTED WITH ITS SPIRIT AND ANY OTHER RELIEF WITH THE HONORABLE COURT DEEMS FIT AND NECESSARY MAY ALSO BE GRANTED IN FAVOR OF THE APPELLANT.

  
APPELLANT

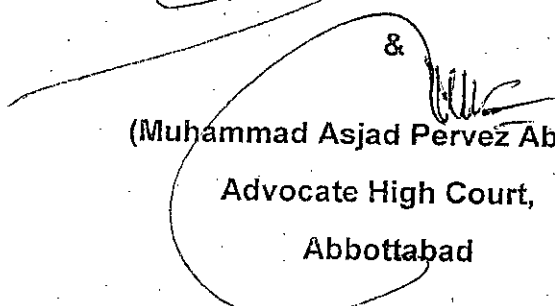
Through:

Dated

21/8/22

  
(Sardar Muhammad Asif)

&

  
(Muhammad Asjad Pervez Abbasi)

Advocate High Court,  
Abbottabad

5

**BEFORE THE KHYBER PAKHTUNKAWA SERVICE TRIBUNAL**  
**PESHAWAR**

Appeal No. \_\_\_\_\_/2023

Muhammad Haroon Qaisar, Sub Division Officer, Building Project Sub  
Division Haripur.

...APPELLANT

V/S

Government of khyber Pakhtunkhwa & Others

...RESPONDENTS

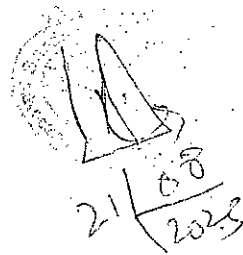
**AFFIDAVIT**

I, Muhammad Haroon Qaisar, Sub Division Officer, Building Project Sub  
Division Haripur, do hereby solemnly affirm and declare on oath that the  
contents of instant Appeal are true and correct to the best of my knowledge  
and belief and no material facts has been concealed from this Honorable  
Court.

Dated 21/8/22



DEPONENT



21/08  
2023

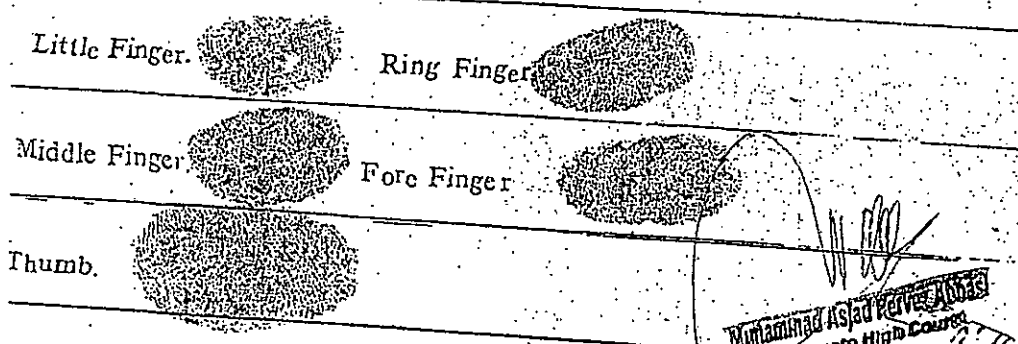
Anna A<sup>2</sup>  
6

P. No. 00222422

*Note:—The entries in this page should be renewed or re-attested at least every five years and the signature in lines 9 and 10 should be dated.*

1. Name Muhammad Haroon Raisi
2. Race Anan
3. Residence Village Khushala P.O. Chakia Teh. Distt. Manshera
4. Father's name and residence Malik Anan vill. Khushala P.O. Chakia Teh. Distt. Manshera.
5. Date of birth by Christian era as nearly as can be ascertained 12-12-1964 (Twelve Dec) (Nineteen Sixty four)
6. Exact height by measurement 5-6"
7. Personal marks for identification A mole on right side of face.

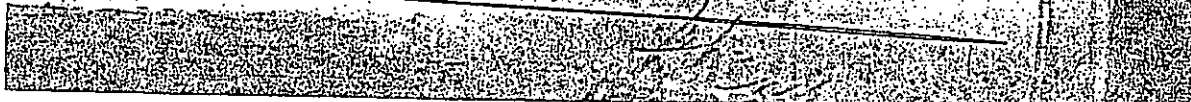
8. Left hand thumb and finger impression of (non-gazetted) officer



*Muhammad Asjad Pervez Abbasi*  
 Advocate High Court

Signature of Government servant

*Muhammad Asjad Pervez Abbasi*




*Muhammad Asjad Pervez Abbasi*  
 Advocate High Court



7

12	13	14	15
<p>Appointed as Sub Engineer (Civil)</p> <p>Rs. 90/- P.M. Plus usual allowances in</p> <p>No. 885 No. 11 vide L.O. No. 46-1830 vide chief</p> <p>Engineer Genl. MHA. NWFP Peshawar</p> <p>OR No. 848/3E/2697/E-I (2) dt. 6-12-90</p> <p>Reported arrival on 22-12-90 (F.N)</p>	<p>Executive Engineer</p> <p>Highway Division</p> <p>Manschn</p>	<p>Signature of the head of the office or other attesting officer</p>	<p>Reference to any recorded punishment or censure, or reward or praise of the Government Servant.</p>
<p>Rs. 825/-</p> <p>11/11/91</p> <p>11/91</p> <p>12/11/91</p>	<p>Pay fixed at Rs. 1447/- P.M. in</p> <p>Revised Basic Pay Scale 1991 in Basic</p> <p>Pay Scale No. 10 vide Rs. 1275-2262-3265</p> <p>vide Govt. of W.F.P. Finance Deptt</p> <p>with application No. FD/PRC/</p> <p>11,892 dt. 1-8-1991 w.c.f. 1-6-1991</p> <p>was next increment on 1-12-1991.</p>	<p>Executive Engineer</p> <p>Highway Division</p> <p>Manschn</p>	<p>Service for the period</p> <p>from 22-12-90 to 30-11-91</p> <p>verified from the office of</p> <p>7 pay bills + Hq. bills</p>
<p>30-11-91 (AM) Approved increment granted.</p>	<p>Executive Engineer</p> <p>Highway Division</p> <p>Manschn</p>	<p>Executive Engineer</p> <p>Highway Division</p> <p>Manschn</p>	<p>Service for the period</p> <p>from 22-12-90 to 30-11-91</p> <p>verified from the office of</p> <p>7 pay bills + Hq. bills</p>
<p>30-11-91 (AM) Approved increment granted.</p>	<p>Executive Engineer</p> <p>Highway Division</p> <p>Manschn</p>	<p>Executive Engineer</p> <p>Highway Division</p> <p>Manschn</p>	<p>Service for the period</p> <p>from 22-12-90 to 30-11-91</p> <p>verified from the office of</p> <p>7 pay bills + Hq. bills</p>

  
 Muhammad Asjad Parvez Abbasi  
 Advocate High Court



Annex B

OFFICE OF THE CHIEF ENGINEER, CENTRE  
COMMUNICATION & WORKS DEPARTMENT  
KHYBER PAKHTUNKHWA PESHAWAR

No. 266-EJ 845 ICE/C&WD

Dated 24/01/2023

TENTATIVE SENIORITY LIST

The Tentative Seniority List of the Sub Engineers (BPS-16/12) (Diploma Holders) (Civil/Electrical/Mechanical) of the C&W Department Khyber Pakhtunkhwa (as stood on 31/12/2022) is hereby circulated as under:-

S.No	Name of Official	Father's Name	Domicile	Qualification	DOB	Date of entry into Govt. Service	Date of Appointment to Class	BPS	Year of Passing prof. exam	Remarks
1	Hamgulat	Attoollah	Tank	DAE(M)	20/03/1964	11-07-1987	11-07-1987	B-16	2010	
2	Tariq Hussain Shah	Syed Irfan Shah	Mansehra	DAE(C)	01-04-1964	15-03-1988	15-03-1988	B-16	Not cleared	
3	Munir Ahmed Malik	Malik Ali Asghar	Haripur	DAE(C)	06-06-1966	15-03-1988	15-03-1988	B-16	01/2022	
4	Alamzeb	Rehmanullah Khan	Swabi	DAE(C)	01-03-1963	16-03-1988	16-03-1988	B-16	-	
5	Karamullah-III	Haji Shahozan	NWA	DAE(C)	01-01-1964	16-03-1988	16-03-1988	B-16	-	
6	Muhammad Shoukat	Abdur Rehman	Mansehra	DAE(E)	12-02-1964	16-03-1988	16-03-1988	B-16	-	
7	Rehman Saeed	Noor Bag	Karak	DAE(M)	15-01-1965	16-03-1988	16-03-1988	B-16	-	
8	Syed Jaffer Shah	S. Bahader Shah	Abbottabad	DAE(C)	01-02-1964	17-03-1988	17-03-1988	B-16	01/2022	
9	Shah Tamas Khan	Israr Khan	Bannu	DAE(C)	30-03-1964	17-03-1988	17-03-1988	B-16	-	
10	Munammad Jami-II	Amanullah	Mansehra	DAE(C)	12-05-1964	17-03-1988	17-03-1988	B-16	2016	
11	Muhammad Iqbal-w	Muhammad Afzal	Baltagram	DAE(C)	20/03/1964	19-03-1988	19-03-1988	B-16	Oct-2018	
12	Tariq Muhammad	Gul Muhammad Khan	Swabi	DAE(C)	15-04-1964	19-03-1988	19-03-1988	B-16	Not cleared	
13	Fida Muhammad	Taj Din	Mansehra	DAE(C)	10-12-1964	19-03-1988	19-03-1988	B-16	2006	
14	Noor Zeb	Mir Sedad Khan	Bannu	DAE(E)	10-04-1965	19-03-1988	19-03-1988	B-16	2006	
15	Muhammad Abul Khair	Khan Sher	Mohmand	DAE(C)	07-10-1965	19-03-1988	19-03-1988	B-16	Dec-2017	
16	Imhaz Ali Khan	Farmanullah	Nowshera	DAE(C)/ B.Tech(C)Pass	10-03-1963	20-03-1988	20-03-1988	B-16	2008	
17	Asmatullah Khan-II	Hamidullah Khan	Tank	DAE(C)	23-03-1964	20-03-1988	20-03-1988	B-16	2008	
18	Salim Khan-III	Multan Khan	Charsadda	DAE(C)	03-09-1964	20-03-1988	20-03-1988	B-16	2008	
19	Luqman Tariq	Khan Gul	FR Bannu	DAE(C)	24-05-1967	20-03-1988	20-03-1988	B-16	2008	
20	Hidayatullah-II	Amanullah Khan	Tank	DAE(M)	20-03-1963	22-03-1988	22-03-1988	B-16	2006	
21	Syed Ali Raza Gillani	M. Ahmad Gillani	Peshawar	DAE(E)	01-10-1966	22-03-1988	22-03-1988	B-16	2008	
22	Muhammad Iqbal V	Awaj Khan	Lakki	DAE(C)	22-01-1964	24-03-1988	24-03-1988	B-16	Dec-11	
23	Muhammad Tariq II	Ghulam Sadiq	DI Khan	DAE(C)	14-08-1966	07-12-1990	07-12-1990	B-16	2006	SEN Bldg SW Tank No 927/7-E dated 30/01/2019
24	Mudasser Shah	Musanna Shah	Charsadda	DAE(C)	04-04-1965	22-12-1990	22-12-1990	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC

Muhammad Asjad Peshawar High Court  
2007/2018

Sl. No.	Official	Father's Name	Domicile	Qualification	DOB	Date of entry Into Govt. Service	Date of Appointment to Class	BPS	Year of Passing prof. exam	Remarks
26	Aziz Gul-II	Qadar Gul	Mardan	DAE(C)	11-02-1967	23-12-1990	23-12-1990	B-16	2010	Seniority fixed as per merit order assigned by the NWFP PSC
27	Muhammad Zubair	Mehar Muhammad	Mardan	DAE(C)	19-09-1963	12-12-1990	12-12-1990	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
28	Muhammad Tahir	Narim Khan	Nowshera	B A/DAE(C)	03-03-1968	20-12-1990	20-12-1990	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
29	Saeed-ud-Din	Wahabudin	Nowshera	DAE(C)	05-02-1963	29-12-1990	29-12-1990	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
30	Syed Yaqoob Jan	Syed Muslim	Orakzai	BA/DAE(C)	15-02-1963	20-12-1990	20-12-1990	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
31	Aurangzeb-IV	Mohabat Khan	Mansehra	F Sc/DAE(C)	09-04-1965	16-12-1990	16-12-1990	B-16	2010	Seniority fixed as per merit order assigned by the NWFP PSC
32	Muhammad Naseer Khan	Abdul Ghaffar	Lakki	DAE(C)	10-03-1966	06-12-1990	06-12-1990	B-16	2011	Seniority fixed as per merit order assigned by the NWFP PSC
33	Muhammad Naseer Khan	Zarab Din	Karak	DAE(C)	02-01-1967	08-12-1990	08-12-1990	B-16	2010	Seniority fixed as per merit order assigned by the NWFP PSC
34	Fajr Malook	Aqal Jan	FR Bannu	DAE(C)	17-12-1963	12-12-1990	12-12-1990	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
35	Shafiqullah	Amanullah	Charsadda	DAE(C)	01-05-1967	16/12/1990	16/12/1990	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
36	Muhammad Azam	Taza Khan	Mardan	DAE(C)	07-11-1969	16-12-1990	16-12-1990	B-16	-	Seniority fixed as per merit order assigned by the NWFP PSC
37	Muhammad Fiaz Ahmed	Muhammad Miskeen	Haripur	DAE(C)	10-09-1966	22-12-1990	22-12-1990	B-16	-	Seniority fixed as per merit order assigned by the NWFP PSC
38	Makzada	Shahzada	Bajaur	DAE(C)	04-05-1964	17-12-1990	17-12-1990	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
39	Qasim Zaman	Ali Zaman	Kurram	DAE(E)	08-02-1965	08-12-1990	08-12-1990	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
40	Hassim Khan	Hussain Afzal	Khyber	DAE(C)	20-01-1964	22-12-1990	22-12-1990	B-16	2010	Seniority fixed as per merit order assigned by the NWFP PSC
41	Fazal Wahid	Ajab Gul	Malakand	DAE(E)	03-02-1965	16-12-1990	16-12-1990	B-16	-	Seniority fixed as per merit order assigned by the NWFP PSC
42	Sultan Zeb	Gulab Shah	Bajaur	DAE(C)	02-03-1966	13-12-1990	13-12-1990	B-16	2010	Seniority fixed as per merit order assigned by the NWFP PSC
43	Jawar Gul	Haji Gul Zaman	Mohmand	DAE(C)	10-10-1965	10-12-1990	10-12-1990	B-16	2006	Seniority fixed as per merit order assigned by the NWFP PSC
44	Ghanullah	Abdul Elahi	NWA	DAE(C)	27-02-1966	12-12-1990	12-12-1990	B-16	2010	Seniority fixed as per merit order assigned by the NWFP PSC
45	Muhammad Haroon Qasir	Malik Aman	Mansehra	DAE(C)	12-12-1964	22-12-1990	22-12-1990	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
46	Jamshed Khan-II	Jamdad Khan	Bajaur	DAE(C)	15-03-1971	04-07-1994	04-07-1994	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
47	Khyal Muhammad	Sher Muhammad	Swabi	DAE(C)	05-12-1972	28-06-1994	28-06-1994	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
48	Farooq Sarwar Baluch	Ghulam Sarwar Baloch	DI.Khan	DAE(C)	12-09-1968	28-06-1994	28-06-1994	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
49	Abdul Hussain-Il Bengash	Muhammad Younas	Kurram	DAE(C)	02-04-1966	30-06-1994	30-06-1994	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
50	Mashoor Khan	Walid Khan	Abbotabad	DAE(C)	04-04-1973	04-07-1994	04-07-1994	B-16	2010	Seniority fixed as per merit order assigned by the NWFP PSC
51	Muhammad Shahid Iqbal	Muhammad Akbar	Haripur	DAE(C)	08-12-1972	03-07-1994	03-07-1994	B-16	01/2022	Seniority fixed as per merit order assigned by the NWFP PSC
52	Taseer Anwar	Anwar Gul	Mohmand	DAE(C)	25-12-1971	27-06-1994	27-06-1994	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
53	Rokhan Gul Khattak	Rai Khan Gul	Karak	DAE(C)	01-01-1971	30-04-1995	30-04-1995	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
54	Muhammad Zafar	Khalifa	Abbotabad	DAE(C)	09-04-1971	23-04-1995	23-04-1995	B-16	2008	Seniority fixed as per merit order assigned by the NWFP PSC
55	Zarif Amin	Muhammad Amin	Abbotabad	DAE(C)	04-05-1970	23-04-1995	23-04-1995	B-16	2010	Seniority fixed as per merit order assigned by the NWFP PSC
56	Anwar Ali	Shah Said	Swabi	DAE(C)	06-03-1963	28-08-1988	13-10-1999	B-16	2006	Promotee, inter-s-seniority in fact
57	Aghal Khan-II	Bashi Khan	Peshawar	DAE(C)	01-06-1964	05-09-1990	20-10-1999	B-16	2006	Promotee, inter-s-seniority in fact

Muhammad Asjad Pervez Abbasi  
 Director, MPA, Govt. of NWFP

Sl. No.	Father's Name	Domicile	Qualification	DOB	Govt. Service	Appointment to Class	GRS	Passing Provl. exam	Remarks
68	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
69	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
70	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
71	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
72	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
73	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
74	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
75	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
76	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
77	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
78	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
79	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
80	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
81	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
82	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
83	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
84	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
85	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
86	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead
87	Muhammad Aslam Khan	Manshera	DAE(C)	01-04-1957	21-04-1992	12-10-1999	B-16	-	Promoted after 5-tenure in lead

Muhammad Aslam Pervaiz Abbasi  
 District Judge  
 District Court

GOVERNMENT OF KHYBER PAKHTUNKHWA  
 FINANCE DEPARTMENT  
 (REGULATION WING)

No. SO(FR)FD/7-13/2017/0253

Dated Peshawar the 07.03.2018

NOTIFICATION

No. FD.SO(FR)7-13/2017/6253. In pursuance of recommendations of the up gradation committee and approval granted by Competent Authority/Sanction is hereby accorded to the upgradation of the post of Sub-Engineer from BPS-11/12 to BPS-16 (one time) as personal to the incumbent having 10 years or more service at their credit in the same scale in all the Government Department of Khyber Pakhtunkhwa with immediate effect.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA  
 FINANCE DEPARTMENT

Muhammad Asjad Pervez Abbasi  
 Advocate High Court

Endst No. & Date even

Copy of the above is forwarded for information and necessary action to the:-

1. PS to Additional Chief Secretary FATA.
2. All Administrative Secretaries Government of Khyber Pakhtunkhwa.
3. Senior Member, Board of Revenue Khyber Pakhtunkhwa.
4. Accountant General, Khyber Pakhtunkhwa Peshawar.
5. Secretary to Governor, Khyber Pakhtunkhwa Peshawar.
6. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. Secretary Provincial Assembly, Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. Registrar, Peshawar High Court, Peshawar.
10. Registrar, Service Tribunal Khyber Pakhtunkhwa.
11. The Treasury Officer, Peshawar.
12. All District / Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
13. Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
14. PS to Finance Secretary.
15. All Section Officers / Budget Officers In Finance Department.

SECTION OFFICER (FR)

Anna D

(S)

13

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

SERVICE APPEAL NO. 1330/2010

Date of institution ... 01.07.2010

Date of judgment ... 02.03.2016



Muhammad Shafiq S/o Kala Khan,  
Sub-Engineer C&W Division, Tehsil & District,  
Abbottabad.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa Peshawar, through Secretary C & W Peshawar.
2. Chief Engineer Centre, C & W, KPK Peshawar.
3. XEN, C & W, Abbottabad.
4. Superintending Engineer, C & W, Abbottabad.
5. Akramullah S/o Nasrullah and 8 others.

(Respondents)

M/S Aqil Naveed Salemani, Muhammad Asif Yousafzai,  
Khalid Rehman, Adam Khan, Muhammad Ismail Alizai,  
Sardar Ali Raza, Rizwanullah and Abdul Salim, Advocates

Muhammad Asif Yousafzai  
Advocate High Court

ATTIESTED

EXAMINER  
For appellant(s) Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Mr. Muhammad Adeel Butt,  
Additional Advocate General  
Name

For official respondents  
For private respondents

Mr. Muhammad Azim Khan Afridi  
Mr. Pir Bakhsh Shah  
Mr. Abdul Latif

Chairman  
Member (Judicial)  
Member (Executive)

02.03.16

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI CHAIRMAN:

This judgment is

aimed at disposal of instant service appeal No. 1330/2010 as well as service appeals No.

(2) 1321/2011 titled Khalid Naeem-vs-Govt. of KPK through Secretary C & W etc.

(3) 1248/2012 titled Daulat Khan-vs-Govt. of KPK through Secretary C & W etc.

(4) 845/2013 titled Saeedullah-vs-Govt. of KPK through Secretary C & W etc.

(5) 848/2013 titled Muddasar Saghir-vs-Govt. of KPK through Secretary C & W etc.

(6) 972/2013 titled Ghulam Qadir-vs-Govt. of KPK through Secretary C & W etc.

(7) 1009/2013 titled Riaz Ahmed-vs-Govt. of KPK through Secretary C & W etc.

(8) 1015/2013 titled Muhammad Idriss-vs-Govt. of KPK through Secretary C & W etc.

ATTIESTED

24/2/16

13

17

- (9) 1184/2013 titled Abdul Qayyum-vs-Govt. of KPK through Secretary C & W etc.
- (10) 1185/2013 titled Sarfaraz Alam-vs-Govt. of KPK through Secretary C & W etc.
- (11) 1186/2013 titled Muhammad Hamid Zia-vs-Govt. of KPK through Secretary C & W
- (12) 1188/2013 titled Shad Muhammad Khan-vs-Govt. of KPK through Secretary C & W
- (13) 1189/2013 titled Syed Abdullah Shah-vs-Govt. of KPK through Secretary C & W
- (14) 1190/2013 titled Nawazish Ali-vs-Govt. of KPK through Secretary C & W etc.
- (15) 1191/2013 titled Niaz Muhammad-vs-Govt. of KPK through Secretary C & W etc.
- (16) 1139/2013 titled Zia-ud-Din -vs- Govt. of KPK through Secretary C & W etc.
- (17) 1300/2013 titled Qaiser Shah -vs- Govt. of KPK through Secretary C & W etc.
- (18) 1338/2013 titled Aurangzeb -vs- Govt. of KPK through Secretary C & W etc.
- (19) 1431/2013 titled Habib Ullah -vs- Govt. of KPK through Secretary C & W etc.
- (20) 1446/2013 titled Mian Jehanzeb Khattak-vs-Govt. of KPK through Secretary C & W
- (21) 1561/2013 titled Yousaf Ali -vs- Govt. of KPK through Secretary C & W etc.
- (22) 1631/2013 titled Muhammad Shakeel Athar -vs- Secretary C & W KPK etc.
- (23) 1632/2013 titled Malik Arif Saeed Diyal-vs-Govt. of KPK through Secretary C & W
- (24) 1633/2013 titled Muhammad Khalil Noor-vs-Govt. of KPK through Secretary C & W
- (25) 95/2014 titled Muhammad Saeed-vs-Govt. of KPK through Secretary C & W etc.
- (26) 96/2014 titled Zahir Gul -vs- Govt. of KPK through Secretary C & W etc.
- (27) 224/2014 titled Muhammad Zubair-vs-Govt. of KPK through Secretary C & W
- (28) 246/2014 titled Abdul Rahim -vs- Govt. of KPK through Secretary C & W etc.
- (29) 365/2014 titled Zulfiqar Ahmad-vs-Govt. of KPK through Secretary C & W etc.
- (30) 366/2014 titled Nascem Ahmed-vs-Govt. of KPK through Secretary C & W etc.
- (31) 367/2014 titled Mazhar Khan -vs- Govt. of KPK through Secretary C & W etc.
- (32) 393/2014 titled Muhammad Javed-vs-Govt. of KPK through Secretary C & W etc.
- (33) 471/2014 titled Said-ul-Ibrar -vs- Govt. of KPK through Secretary C & W etc.
- (34) 477/2014 titled Lal Badshah -vs- Govt. of KPK through Secretary C & W etc.
- (35) 484/2014 titled Abdul Khalil -vs- Govt. of KPK through Secretary C & W etc.
- (36) 489/2014 titled Abdul Farooq -vs- Govt. of KPK through Secretary C & W etc.

Muhammad Asad Pervez A  
 Advocate High Ct

02.03.16

EXAMINER  
 Khyber Pakhtunkhwa  
 Board of Education

ATTESTED

29/6/2014

14

- (37) 513/2014 titled Irshad Ahmed Khan-vs-Govt. of KPK through Secretary C & W
- (38) 699/2014 titled Muhammad Akram-vs-Govt. of KPK through Secretary C & W
- (39) 700/2014 titled Abdul Qayum-vs-Govt. of KPK through Secretary C & W etc.
- (40) 722/2014 titled Faiz Ullah Khan-vs-Govt. of KPK through Secretary C & W etc.
- (41) 749/2014 titled Zamir Jang -vs- Govt. of KPK through Secretary C & W etc.
- (42) 770/2014 titled Syed Tariq Mahmood-vs-Govt. of KPK through Secretary C & W
- (43) 852/2014 titled Ghulam Rahim-vs-Govt. of KPK through Secretary C & W etc.
- (44) 907/2014 titled Liaqat Shahi -vs- Govt. of KPK through Secretary C & W etc.
- (45) 915/2014 titled Noor-ul-Basar -vs- Govt. of KPK through Secretary C & W etc.
- (46) 920/2014 titled Sabit Khan -vs- Govt. of KPK through Secretary C & W etc.
- (47) 1035/2014 titled Manzoor Hahi -vs- Govt. of KPK through Secretary C & W etc.
- (48) 1100/2014 titled Fazal Mehmood-vs-Govt. of KPK through Secretary C & W etc.
- (49) 1112/2014 titled Nisar Ahmed -vs- Govt. of KPK through Secretary C & W etc.
- (50) 1132/2014 titled Faj Muhammad-vs-Govt. of KPK through Secretary C & W etc.
- (51) 1223/2015 titled Sardar Naeem Ahmed-vs-Govt. of KPK through Secretary C & W etc. and (52) 1284/2015 titled Muhammad Zaka Khan-vs-Govt. of KPK through Secretary C & W etc as common questions of law and facts are involved therein.

*Muhammad Asjad Pervez Abbas*  
 Advocate High Court

02.03.16

2. In appeal No. 1330/2010, Muhammad Shafiq appellant has prayed for grant of BPS-16 being senior to private respondents No. 5 to 13 i.e Akramullah s/o Nasrullah, Sher Wali Jhang s/o Amirzada Khan, Misal Khan s/o Yousaf Khan, Hidayatullah-I s/o Anayatullah Khan, Sanaullah Tajori-III s/o Muslim Khan, Zaffarullah Khan s/o Ahbebullah, Tariq Usman s/o Noor Zahib Khan, Muhammad Javed Rahim s/o Abdul Rahim and Junshid Khan-I s/o Saif-ur-Rehman. According to his stance the respondents were granted Senior Scale and appellant ignored despite the fact that he was senior and fit and fulfilling the prescribed criteria.

RECEIVED  
 24/12/12

3. In appeal No. 1321/2011 instituted on 11.7.2011, appellant Khalid Naeem is seeking directions of this Tribunal so as to grant him B-16 as he has joined the C & W

ATTESTED



15 18

Department as Sub-Engineer on 9.12.1981 and has passed B-Grade Departmental Examination in the year 1994 and has more than 30 years service to his credit including good service record and entitling him to the grant of Senior Scale on the strength of 25% of the total number of posts of Sub-Engineers.

4. In appeal No. 1248/2012, appellant Daulat Khan has prayed for grant of BPS-16 as per rules with all consequential benefits from due date as he has qualified the prescribed examination and rendered more than 10 years service.

5. In appeal No. 845/2013, appellant Saeedullah has prayed for grant of Senior Scale (BPS-16) mainly on the ground that this Tribunal has granted the Senior Scale to similarly placed employees vide judgment dated 11.12.2012 and as such he is entitled to alike treatment. Similar prayers are made by appellants in appeals No. 848/2013, 1009/2013, 1184 to 1186/2013, 1188 to 1191/2013, 1139/2013, 1300/2013, 1338/2013, 1446/2013, 1561/2013, 224/2014, 246/2014, 365/2014, 366/2014, 489/2014, 513/2014, 699/2014, 700/2014, 722/2014, 749/2014, 852/2014, 907/2014, 915/2014, 920/2014, 1035/2014 and 1132/2014.

Muhammad Asjad Parvez Abbasi  
Advocate High Court

02.03.16

6. In appeal No. 972/2013, appellant Ghulam Qadir has prayed for grant of BPS-16 with all back benefits on the ground of fulfilling the prescribed criteria and on the rule of alike treatment extended to similarly placed employees. He has also prayed for special cost on the ground that he was deprived of his due right by the respondents and compelled to litigate for his right as similarly placed Sub-Engineer were extended benefits of litigation while appellant was discriminated for no fault on his part.

7. In appeal No. 1015/2013, appellant Muhammad Idrees Alizai has prayed for grant of Senior Scale (BPS-16) with back benefits and imposition of Special Cost despite his entitlement to the said scale and judgment of this Tribunal in service appeal

ATTESTED  
KHALID AHMED  
Secretary Tribunal

ATTESTED

RECEIVED  
24/2/23



17 15

dated 23.4.2009 and 11.12.2012. A similar prayer is made by appellant Muhammad Zaka Khan in appeal No. 1284/2015.

13. Learned counsel for the appellants as well as appellants argued that according to Schedule-I of Communication and Works Department (Recruitment and Appointment) Rules, 1979, appellants were entitled to appointment as Senior Scale Sub-Engineers as they were fulfilling the pre-requisites and prescribed criteria. That even junior civil servants serving as Sub-Engineers were promoted and even appointed as Sub Divisional Officers in their own pay scale while appellants ignored for no fault or omission on their part. That earlier this Tribunal has granted Senior Scale to the aggrieved civil servants approaching this Tribunal and that keeping in view the criteria laid down for grant of Senior Scale and judgments of this Tribunal, the appellants are entitled to alike treatment. Reliance was placed on case-law reported as 2009 SCMR 1 (Supreme Court of Pakistan), 2002 SCMR 71 (Supreme Court of Pakistan), 1996 SCMR 1185 (Supreme Court of Pakistan) and PLD 2002 Supreme Court 46 as well as judgments of this Tribunal dated 23.4.2009 and 11.12.2012.

Muhammad Asjad Pervez Abbas  
Advocate High Court

02-03-16

14. Learned Additional Advocate General has argued that the C & W Department was obliged to restrict grant of Senior Scale to the extent of criteria laid down at S.No.5 of Schedule-I of the said Rules and that on the strength of the same 25% of total sanctioned posts were treated as Senior Scale posts (BPS-16) and the concerned civil servants accordingly up-graded at the relevant times as per laid down criteria. He further argued that due to improprieties, undue favours, incorrect interpretation of rules and erroneous interpretation of the judgments of this Tribunal and the rule of alike treatment the said scheme of grant of Senior Scale was frustrated at different levels and times and as a consequence thereof Senior Scale (B-16) was granted to Sub-Engineer in

excess of 25% of the sanctioned strength of Sub-Engineers and, therefore, Provincial Exchequer was exposed to sustain huge and constant financial liability. That since the Respondent-department has exhausted the prescribed 25% of total number of sanctioned

RECEIVED  
COMMUNICATIONS  
DEPARTMENT  
24/12/2015

RECEIVED

24/12/2015

18 16

posts meant for Senior Scale Sub-Engineers and the scheme of grant of the said Senior Scale stood abolished under the Pay Revision Rules, 2001 by December 1, 2001; as such the appellants were not entitled to the Selection Grade claimed through the instant service appeals. He further argued that the authorities involved in illegal appointments and grant of Senior Scale were accountable to Provincial Government and irregularities carried out in the process were liable to be declared null and void.

15. We have heard arguments of the learned counsel for the parties and perused the record.

16. Keeping in view the pleadings, record placed before us and arguments of learned counsel for the parties and appellants, the following emerging controversies and points need determination:

- i. Impact of Recruitment and Appointment Rules, 1979 and its life cycle vis-a-vis claims of appellants.
- ii. Entitlement of appellants to Senior Scale on the rules of alike treatment and grant of the same to civil servants ignored despite seniority.
- iii. Legal status of appointments against higher posts in Own Pay Scale.
- iv. Impact of judgments of this Tribunal dated 11.12.2012 and 23.4.2009.

Muhammad Asjad Pervez Abdo.  
Advocate High Court

02.03.16

17. For answering and determining the points in issue, we deem it appropriate to refer to and reproduce the Notification of the then Provincial Government, Services, General Admn. Tourism and Sports Department dated Peshawar, the 13th January, 1980 on the basis whereof Communication and Works Department (Recruitment and Appointment) Rules, 1979 were promulgated and which reads as under:

ATTESTED

EMR 250/ER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

24/3/23

GOVERNMENT OF NORTH WEST FRONTIER PROVINCE  
SERVICES & GENERAL ADMINISTRATION, TOURISM & SPORTS  
DEPARTMENT.

NOTIFICATION

Peshawar the 13 January, 1980

No. SOR-I(S&GD)-12/74.--In exercise of the Powers conferred by Section 26 of the North West Frontier Province Civil Service Act, 1973 (NWFP Act XVIII of 1973), in supersession of all previous rules on the subject in this behalf the Governor of the North-West Frontier Province is pleased to make the following Rules, namely:-

THE COMMUNICATION & WORKS DEPARTMENT  
(RECRUITMENT AND APPOINTMENTS) RULES, 1979.

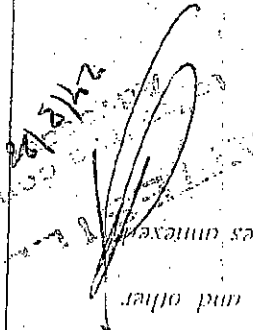
(1) These rules may be called the Communication and Works Department (Recruitment and Appointment) Rules, 1973.


(2) They shall come into force at once.

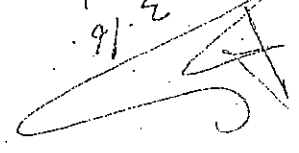
2. The Method of recruitment, minimum qualifications, age limit and other matters related thereto for the Posts specified in column 2 of the Schedules annexed shall be as given in column 3 to 7 of the said Schedules.

ATTESTED

SECRETARY  
GENERAL  
SERVICE  
COMMISSION  
PESHAWAR

24/12/79  


  
Muhammad Asjad Pervaiz Abbas  
Advocate High Court

02.03.18  


15  


18

20

COMMUNICATION & WORKS DEPARTMENT  
SCHEDULE-I

S.NO.	Nomenclature of post	Minimum Qualifications for Appointments		Age for initial Recruitment		Method Recruitment
		Initial Recruitment by Transfer	Promotion	Minimum	Maximum	
1	2	3	4	5	6	7
1 to 4	<i>Irrelevant</i>					
5	Senior Scale Sub-Engineer		Diploma in Engineering from a recognized Institute			Twenty five per cent of the total number of posts of diploma holder Sub-Engineers from the cadre Senior Scale Engineers and be filled by selection on merit with regard to seniority from amongst Engineers of Department, have passed Departmental Examination have at least years service as
6 and onwards	<i>Irrelevant</i>					

*[Signature]*  
02.03.16

*[Signature]*  
Muhammad Asjad Pervez Abbasi  
Advocate High Court

ATTESTED

*[Signature]*  
SUPERVISOR  
Khyber Pakhtunkhwa

*[Signature]*  
24/12/23

Handwritten initials and marks at the top right of the page.

18. A plain reading of the text appearing at serial No. 5 of the schedule reproduced above would suggest that a civil servant aspiring for the Senior Scale Sub-Engineer shall hold a Diploma in Engineering from a recognized Institute, shall rank senior among his colleagues, shall hold a position falling within domain and sphere of 25% of the total number of posts of the Sub-Engineers, shall have at least 10 years service as Sub-Engineer and shall have passed the prescribed departmental examination at the relevant time. In other words a Sub-Engineer devoid of the above criteria and traits would not be entitled to claim Senior Scale. The said rule and schedule has explicitly curtailed the magnitude, size and sphere of the Senior Scale Sub-Engineers to 25% of the total sanctioned posts of Sub-Engineers and, therefore, no authority was empowered to exceed or surpass the said number of Senior Scale Sub-Engineers.

19. The operation of the said rules applicable to Sub-Engineer with reference to grant of Senior Scale to 25% of the total number of posts has come to an end with effect from December 1, 2001. in view of notification dated 27.10.2001 whereby the scheme of selection grade and Move-over stood discontinued as laid down in para-7 of the said Pay Revision Rules, 2001.

Handwritten signature and date: 02.03.06.

20. It is, therefore, held and concluded that the Senior Scale admissible to Sub-Engineers could only be granted and restricted to those Sub-Engineers who were fulfilling the prescribed criteria in the above manners on or before December 1, 2001.

Handwritten signature and stamp: Muhammad Asjad Pervez Abidi, Advocate High Court.

21. Record placed before us in different appeals would suggest that to implement the said rule in letter and spirit, the Establishment Department was constrained to issue letter No. SO(PSB)ED/1-23/2002 dated Peshawar, the 3.7.2004 wherein cut off date for processing pending cases was extended to 31.8.2004 with certain observations, relevant portion whereof is reproduced herein for facilitation and ready reference:

Handwritten signature and date: 24/12/25.

TESTED

"All left over cases of Government Servants who were eligible for Selection Grade/Movover before 1.12.2001 may be placed before PSB/

Handwritten signature and initials at the bottom left.

222

DPC for consideration as per instructions/policy on the subject at the latest otherwise strict disciplinary action would be taken against the defaulting official under the NWFP Removal from Service (Special Powers) Ordinance, 2000."

22. Authorities at the helm of affairs were conscious and cognizant of the facts and law that a civil servant otherwise entitled to Senior Scale could not be deprived of the same because of incomplete service record including Performance Evaluation Reports (PERs) etc. and for reasons not attributable to such a civil servant. To achieve the righteous outcome and to avoid irregularities the defaulting officers were warned to be proceeded against under the punitive rules then in-vogue. Miseries of the aspiring and deserving Sub-Engineers came to surface when instead of competing and submitting the cases, junior officers were favoured and elevated to the Senior Scale prompting those ignored to approach this Tribunal for redressal of their grievances and this Tribunal, vide judgments dated 23.4.2009 and 11.12.2012 granted the relief by directing the respondents to extend similar treatment to equally placed employees by granting them Senior Scale.

23. The department and authority responsible to restrict Senior Scale to the prescribed 25% limit of posts and bound to raise concerns over such irregularities and state of affairs simply granted Senior Scale to Sub-Engineers in excess of 25% of the total number of posts in disregard of the rules. The grant of the said Senior Scale has not come to an end till date for the reasons that the same is granted by ignoring the prescribed limit of 25% including the time frame ending on December 1<sup>st</sup>, 2001. The practice adopted is not only condemnable but also worth taking note of because overburdening the public exchequer offensively.

AS  
02-03-18

TESTED  
JUDGE  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

24. Section-5 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 hereinafter referred to as the Civil Servants Act, 1973 mandates that appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall

21/12/12  
Muhammad Asjad Pervez Abbasi  
Advocate High Court



made in the prescribed manners by the Governor or by a person authorized by the Governor in that behalf. Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, hereinafter referred to as APT Rules, 1989 framed under the provisions of section-26 of the Act, 1973 restricts but empowers the competent authority to make appointments, in case of exigencies prescribed in Rule-9, on acting or current charge basis in the public interest. Appointment to a higher post in own pay scale is a practice ruinous to Service Rules and structure of civil service and is ordinarily adopted by the authority to either favour their nears and dears or to distant the deserving civil servants due for promotion or to delay or beat timely inductions through initial appointments. This practice is frequently adopted and applied by the authorities despite the fact that the same is illegal and condemnable. We, therefore, hold that appointment of a civil servant in his own pay scale against a higher post is a practice derogatory to law and rules and good governance and we, therefore, accordingly direct that the same be discontinued by the authorities concerned forthwith but not beyond a period of one month. We further resolve and hold that the authorities failing to discontinue or pursuing such unlawful practices in future be dealt with under the relevant punitive laws and that departmental action against such incumbents for misusing and abusing authority vested in them by virtue of their office shall be initiated and concluded to logic end.

02.03.16

25. We are conscious of the fact that giving definite findings about the validity of judgments of this Tribunal entitling appellants in the stated appeals to Senior Scale are not warranted at this stage as the said matter is not agitated before us in the manner prescribed by law. We, therefore, direct that in case a Sub-Engineer not falling within the parameters of selection to Senior Scale on the above criteria but availing the privileges of such scale on the strength of any office order or judgment of this Tribunal be dealt with in accordance with law and subject to legal process and if so permitted by law, recoveries be made from their persons.

Muhammad Asjad Pervez Abbasi  
Advocate High Court

24/1/12

ATTESTED

26. We further hold and direct that slots at the prescribed ratio available for grant

EXAMINER  
KHYBER PAKHTUNKHWA  
CIVIL SERVICE TRIBUNAL

~~22~~ 24

of Senior Scale at the relevant times be calculated by the department and those fulfilling the criteria for Senior Scale but ignored due to lapses not attributable to ignored/leftover officers be granted the Senior Scale from the date of entitlement i.e accruing of vacancies in the Senior Scale but subject to the provisions of the Pay Revision Rules, 2001. We also direct that the Provincial Government shall honour its directive and shall take disciplinary action against those responsible for maintaining, updating and completing the record of the officers, but ignoring their responsibilities and thus giving space to irregularities and illegalities thereby causing and inflicting losses on public exchequer.

27. We are alive to the situation that while computing the seats of Sub-Engineer in the Senior Scale and eligibility of the senior officers against the same the authorities concerned may find grant of selection grade allowed in excess of the prescribed limit and ratio. We, therefore, direct that the situation be addressed by the authorities concerned by resorting to legal course and in case any officer granted Senior Scale in excess of prescribed limit is found protected by any law, rules or judgment of the Court then, in such eventuality, the officers of the administrative department responsible for handling the affairs relating to grant of Senior Scale at the relevant time be sorted out and be proceeded against for realization of monetary loss caused to the public exchequer as a consequence of their irresponsible and undesirable behavior.

AS  
02.03/16

28. Before parting with this judgment we deem it our duty to discuss the case law cited at the Bar at the time of arguments by the learned counsel for the parties.

AK  
N  
Muhammad Asjad Pervez /  
Advocate High Court

29. In case of Hameed Akhtar Niazi reported as 1996 SCMR 1185 and Sameena Perveen reported as 2009 SCMR 1, the august Supreme Court of Pakistan has observed that if the Service Tribunal or Supreme Court decides a point of law relating to the terms and conditions of service of a civil servant which covers not only the case of civil servant who litigated but also of other civil servants who may have not taken any legal proceedings, in such a case, the dictates and rule of good governance

ATTESTED  
Khyber Pakhtunkhwa

21/3/22

2522

demand that the benefit of such judgment by Service Tribunal/Supreme Court be extended to other civil servants who may not be parties to the litigation instead of compelling them to approach the Service Tribunal or any other forum.

30. Though adequate number of Sub-Engineers seeking Senior Scale are present before us but there is likelihood that certain civil servants might not have approached this Tribunal to litigate for their claims. We, therefore, direct that the benefit of this judgment be extended to those Sub-Engineers who fulfilled the criteria of becoming Senior <sup>scale</sup> Sub-Engineer at the relevant time.

31. In case of Fida Hussain reported as PLD 2002 Supreme Court 46 and Abdul Samad reported as 2002 SCMR 71 it was observed by the august Supreme Court of Pakistan that rule of consistency must be followed in order to maintain balance and the doctrine of equality before law. That dictates of law, justice and equity required exercise of power by all concerned to advance the cause of justice and not to thwart it.

32. Deriving wisdom from the mandates of law, judgment of the august Supreme Court of Pakistan and to advance the cause of justice and to frustrate efforts and attempts of thwarting just and fair-play we direct that the judgment be giving effect by the respondents in letter and spirit.

33. The appeals are disposed of in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record room.

34. In the end we direct the Registrar of this Tribunal to circulate a copy of this judgment among all concerned departments of the Provincial Government for guidance and compliance.

*Signature*  
Muhammad Asjad Parvi  
Advocate High Court

*Signature*  
(PIR BAKI SH SUHAH)  
MEMBER

*Signature*  
(MUHAMMAD AZIM KHAN AERIDI)  
CHAIRMAN

*Signature*  
(ABDUL LATIF)  
MEMBER

Certificate to true copy  
Khan  
Peshawar

ANNOUNCED  
02.03.2016

28

12

In The Peshawar High Court, Peshawar.



Constitutional Petition No 6--P/2019

1. Mr. Zewar Din S/O Rehman Ud Din R/o Municipal Colony Street  
No 2 Mohalla Rahim Kohat Road Peshawar ( Sub Engineer )  
Retired, Provincial Building Construction Division No 11 Peshawar.
2. Waheed Ahmad ( Sub Engineer )S/o Umar Bakhsh R/O House No  
1913 Mohalla Kakye Khelan Yakatoon Peshawar.
3. Mushtaq Ali ( Sub Engineer ) S/O Sherin Gul R/O Village Hasan -  
Khel Post office & Tehsil Mir Ali North Waziristan.
4. Asmat-Ullah (11) S/O Hameed-Ullah R/O Street No 2 Mohalla  
Qadoos Abad grid Road D.I. Khan.
5. Hafeez Ur Rehman S/ O Habib- Ur- Rehman R/o Aziz Abad  
Murshad Abad Kohat road Peshawar.
6. Muhammad Naeem Ill S/O Muhammad Ashraf R/o House No  
4283 Street No 3 Kakshal Peshawar.
7. Iftikhar Babar S/O Fazal Ilahi Babar R/O Peshawar Model Town  
Warsak Road street No 2 Peshawar.
8. Muhammad Shukat S/O Abdur Rehman R/O Chakeer Road Tanki  
Mor, Mohalla Noor Pur Mansehra.
9. Arshad Ahmad Khan- I S/O Sardar Kala Khan R/O Changa House  
Sardar Street Javeed Shaheed Road Mandian Abbot Abad.
10. Muhammad Sajjad ( Sub Engineer ) S/O Abdul Haleem R/O  
House No 4421 Mohalla Afridi Khan Tehsil & District Peshawar.
11. Inayat Ur Rehman S/O Muhammad Ismail R/O Ziarat  
Talash Post Office Khas Timergara District Lower Dir.
12. Muhammad Iqbal S/O Faraz Malik R/O House No 110  
No 7 Sector 2 Peshawar.

ATTESTED  
EXAMINER  
Peshawar High Court

Muhammad Asjad Pervez Abbasi  
Peshawar High Court

27

2

- 13. Ibad Ullah S/O Muhammad Karim Mohalla Piran Village Utmanzai Tehsil & District Charsadda.
- 14. Muhammad Hayat S/O Noman Kalim R/O Mohalla Sanam Ghari Village Utmanzai Tehsil & District Charsadda.
- 15. Shahzad Hasan S/O Sher Hasan Khan R/O Private House No -3 Civil Colony Kohat road Peshawar.
- 16. Akbar Ali S/O Muhammad Akbar R/O Hafiz abad Manga Dargai Tehsil & District Charsadda.
- 17. Muneeb Khan S/O Jafar Khan R/O Ekka Ghund Tehsil Ekka Ghund District Mohmand

(Petitioners)

Versus

- 1. Government of Khyber Pakhtoon khwa Through Secretary Communication & Works Department Peshawar.
- 2. Chief engineer (Centre) C& W KPK Peshawar..... ( Respondents)

Constitutional Petition under Article 187(2) read with Article 199(1)(a)(i) of the Constitution of Islamic Republic Of Pakistan.

Prayer:

On acceptance of this Constitutional Petition a writ may be issued:

- 1. Directing the Respondents to grant Senior Scale Grade BS-16 / to the Petitioners w.e.f 04.09.2003 as is granted to other sub - Engineers even juniors to them vide dated Peshawar April 30,2018 Notification No SOE/C&WD/4-2/2018.in pursuant of the Khyber Pakhoonkhwa Service Tribunal Judgment dated 02.03.2016 upheld by Supreme Court of Pakistan vide its order dated 13.02.2017 in C.P No- 223-P/303 and 493-P of 2016.
- 2. Any other relief which this Honourable Court may deem just in the circumstances.

ATTESTED  
EXAMINER  
Peshawar High Court

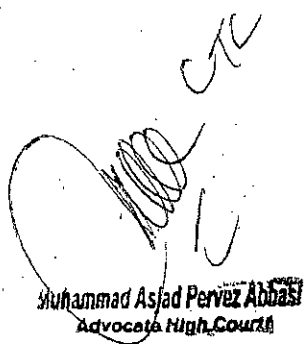
Muhammad Asjad Pervez Abbasi  
Advocate High Court

28 (3)

Respectfully Sheweth:- The need for the instant Constitutional Petition arises due to the following facts:

Facts:-

1. That the Petitioners are sub Engineers in the Respondent department and have passed the Grade B Departmental examination before 2001, the time when the senior scale Grade Bs 16/Selection Grade as per policy of the Provincial Government was allowed. ( Copy of result 1988 and CVs is attached as Annexure A at page No 11 ).
2. That the Government of Khyber Pakhoonkhwa ( NWFP) services and General Administration , Tourism & Sports Department on 13<sup>th</sup> January made for the C&W Department ( Recruitment and Appointments Rules 1979) in accordance to which the qualification for the Senior scale Sub Engineer was held Diploma in Engineering from a recognized Institute and 25% of the total number of posts of the Diploma holder Sub Engineer shall be from the cadre of senior scale sub engineers and shall be filled on merit with due regard to seniority.
3. That the Petitioners were eligible for senior Scale BS-16 but avoided to engage the Respondent Departments in litigation and were expecting the initiation of such grant of Senior Scale Grade on their turn by the Respondents themselves but nothing was done. A total 52 number of the sub engineers disappointed with the conduct of the Respondents filed appeals which were clubbed and the full Bench of the KPK Service Tribunal ( consisting of three members ) with certain terms including extending the benefits of the Judgment in its paras No 29,30 and 31 to those sub Engineers who filled the criteria at the relevant time was accepted and dispose off. ( Copy of Judgment is attached as Annexure B at page No 28 ).
4. That The Respondents filed Civil Petitions No 223-P, 303-P to 353, 391-P to 394 -P and 493 of 2016 in the Supreme Court of Pakistan through Appellate Jurisdiction and ...

  
 Muhammad Asjad Pervez Abbas  
 Advocate High Courts

ATTESTED  
 EXAMINER  
 Peshawar High Court

Muhammad Pervez  
 Adv...

29

4

dismissed without granting leave asked for, declaring it without merit on 13.2.2017.....(....Copy of Judgment dated 13.2.2017 is attached as annexure C at page No 43 ).

5. That the Dictum of both the Judgments are based on the principle laid down in the case of Hamed Akhtar Niazi 1996 SCMR 1185 and Sameena Perveen 2009 SCMR 1 . In both these cases the august Supreme Court of Pakistan has observed that if a tribunal or a court of law decides a point of law relating to the terms and conditions of a service of a civil servant which covers not only the case of a civil servant who litigated but also of other civil servants who may have not taken any legal proceedings. In such a case the dictates of good governance demand that the benefits of such judgment be extended to other civil servants who may not be parties to the litigation instead of compelling them to approach the service tribunal or any other forum.

6. That in pursuance of the judgment of the KPK Service tribunal been upheld by the august court the Respondents issued a notification granting the Senior scale Bs-16 to all those who were party to the litigation but ignored the Petitioners been senior to them but were not party to the litigation. ....( Copy of Notification dated Peshawar the April 30, 2018 is attached as annexure D at page No. 47 )

ATTESTED  
EXAMINER  
Peshawar High Court

7. That feeling aggrieved of the conduct of the Respondents for ignoring the ruling of the August Court of Pakistan , the Petitioners made Representations to the Secretary C&W Department KPK Peshawar which is processed through C & W department/ various sections with the opinion that the petitioners are eligible and are not involved in any criminal activities, and even the Secretary C&W recommended the Petitioners for senior Scale grade as they been eligible at the relevant time and even the opinion of the law department of the KPK was invited but it was delayed and at the end the Respondents regretted the representation on the ground that the Policy of the selection grade has since been discontinued by the Provincial government. Needless to mention some of them got retired during this time ( All such ...

  
Muhammad Asjad Pervez Abbasi  
Advocate High Courts

30

5

and opinions etc with impugned order is attached as Annexure E at page No 49.)

8. That the issue in hand is in respect of the interpretation of the ruling of the august court with the proposition, either it is to be implemented by the Respondents or to be again litigated by the aggrieved civil servant. Further when the Service Tribunal and the august Supreme Court of Pakistan has held that those who were eligible before the policy is discontinued then why the Petitioners been eligible at that time are ignored.

9. That though the Petitioners are civil servant but the issue relating to the terms and conditions of the Petitioners is settled and this Petition is not in respect of the terms and conditions of a Petitioner but the issue is that the respondent is not implementing the Ruling of the august court which is unconstitutional.

Being aggrieved as the Judgment of the August Supreme court of Pakistan is not extended to the petitioners and with no alternate adequate remedy available so far this Constitutional Petition is preferred on the following grounds.

Grounds:

A. That by not implementing the judgment of the august court by the Respondent department in the form of extending the same relief to the Petitioners is a conduct against the law, without lawful authority and without jurisdiction and the mandate of Article 187(2) of the Constitution demands the interference of this Honourable Court.

B. That as per Article 5 of the Constitution of the Islamic republic Of Pakistan the obedience to law and Constitution is obligation of every citizen and the decision of the august court has the force law and is binding on all state institution.

ATTESTED  
EXAMINER  
Peshawar High Court

*Signature*  
Muhammad Asjad Pervez Abbasi  
Advocate High Court



C. That once the august court gives any verdict the state institution are duty bound to obey it without any hesitation and in case of non obedience the loyalty of that person to the state is in doubt.

D. That sub clause 2 of Article 187 in very clear terms lays down that the directions, order or decree issued by the August court is enforceable throughout Pakistan and be executed without any delay.

E. That the Petitioner case is within the parameters mentioned in the KPk Service Tribunal judgment and the judgment of the august Court of Pakistan in respect of relevant time and eligibility/ criteria consequent thereof is entitled to the same relief as per ruling of the august court of Pakistan.

F. That the reasons given for none extending the benefits of the judgments in the impugned order is unreasonable as this issue is solved in the judgment and the Petitioner was eligible before the policy was discontinued.

Therefore it is Prayed that this constitutional Petition may be admitted and allowed with a prayer above.

Petitioners

Through

*[Signature]*

Guham Mah Ud-Din. Malik

Advocate Supreme Court of Pakistan.

Cell# 03339129616

Muhammad Farooq Malik

Advocate Peshawar High Court.

May  
ATTESTED  
EXAMINER  
Peshawar High Court

*[Handwritten initials]*

*[Signature]*  
Muhammad Asjad Pervez Abbasi  
Advocate High Courts

32

7

Certificate

This is certified that the Petitioners have not filed any other Constitutional/writ petition in respect of the same subject matter before this Honourable court.

*[Signature]*  
Petitioners

Books recommended:

1. The Constitution of Islamic Republic of Pakistan, 1973.
2. Case law mentioned in the judgments of both forums

*[Signature]*  
Petitioners

Through

*[Signature]*

Ghulam Mah-Ud-Din, Malik  
Advocate Supreme Court of Pakistan.

Cell# 03339129616

Muhammad Farooq Malil *[Signature]*  
Advocate Peshawar High Court.

Cell# 03149008308

*[Signature]*

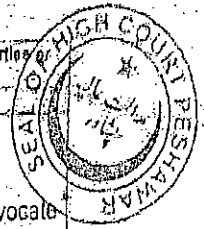
12 APR 2021

*[Signature]*

*[Signature]*  
Muhammad Asjad Pervaiz Abbasi  
Advocate High Court

33

**PESHAWAR HIGH COURT PESHAWAR  
ORDER SHEET**



Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
06.04.2021	<p><u>CM No. 06-P/2019 with CM No. 01-P/2021.</u></p> <p>Present: Mr. Ghulam Mohy-ud-Din Malik, advocate for the petitioners.</p> <p>Mr. Mujahid Ali Khan, Addl. AG on behalf of respondents alongwith Toufeeq DS and Malik Muhammad Ali SO (lit) C&amp;W.</p> <p>.....</p> <p><u>LAL JAN KHATTAK:</u> Through the petition in hand under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, the petitioners have prayed for issuance of a writ to the following effect:-</p> <p>Direct the respondents to grant senior scale grant BS-18 to the petitioners w.e.f. 04.09.2003 as is granted to other sub-engineers even Juniors to them vide notification No. SOE/C&amp;W/4-2 /2018, dated 30<sup>th</sup> April, 2018, in pursuance of the decision of Khyber Pakhtunkhwa, Service Tribunal Judgment date d02.03.2016 upheld by the apex Court in CP No. 223-P/303 to 353 &amp; 493-P of 2016 dated 13.02.2017.</p> <p>2. At the very outset, learned counsel for the petitioners submitted at the bar that he would not press this petition anymore if directions are given to the respondents to consider the petitioners' grievance and resolve the same at their end to which the learned Addl.</p>

*lgom*

**ATTESTED**  
EXAMINER  
Peshawar High Court

*et*  
*Muhammad Asjad Pervez Abbasi*  
Advocate High Court

34

Contd.

Advocate General did not object.

3. In view of the above, we dispose of the petition in hand by directing the respondents to consider the petitioners' grievance brought by them before this Court in light of the judgment delivered by the Khyber Pakhtunkhwa, Services Tribunal dated 02.03.2016, which has been upheld by the Hon'ble Supreme Court of Pakistan vide judgment dated 13.02.2017, with further direction that while deciding the petitioners' grievance recourse be also made to the letters available at pages 55, 57 & 58 of this petition. It will be appreciated if the referred exercise is undertaken by the respondents within a period of two months from today.

JUDGE

JUDGE

EXHIBIT TO BE TRUE COPY  
Clerk  
Khyber Pakhtunkhwa High Court  
Administrative Officer, District B-7, of  
the District and Sessions Judge's Office

12 APR 2021

No. 32694  
Date of Presentation of Application 06/4/2021  
No. of Pages 9-1  
Copying fee  
Total 36/-  
Date of Preparation 12/4/2021  
Date of Delivery of Copy 12/4/2021  
Received By

Muhammad Asjad Pervez Abbas  
Advocate High Court

LEGIBLE COPY

GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

No. SO(FR)FD/7-13/2017/0253

Dated Peshawar the 07.03.2018

NOTIFICATION

No. FD.SO(FR)7-13/2017/6253. In pursuance of recommendations of the up gradation committee and approval granted by Competent Authority/Sanction is hereby accorded to the upgration of the post of Sub-Engineer from BPS-11/12 to BPS-16 (one time) as personal to the incumbent having 10 years or more service at their credit in the same scale in all the Government Department of Khyber Pakhtunkhwa with immediate effect.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Muhammad Asjad Pervez Abbot  
Secretary, Finance Deptt

Endst No. & Date even

Copy of the above is forwarded for information and necessary action to the:-

1. PS to Additional Chief Secretary FATA.
2. All Administrative Secretaries Government of Khyber Pakhtunkhwa.
3. Senior Member, Board of Revenue Khyber Pakhtunkhwa.
4. Accountant General, Khyber Pakhtunkhwa Peshawar.
5. Secretary to Governor, Khyber Pakhtunkhwa Peshawar.
6. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. Secretary Provincial Assembly, Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. Registrar, Peshawar High Court, Peshawar.
10. Registrar, Service Tribunal Khyber Pakhtunkhwa.
11. The Treasury Officer, Peshawar.
12. All District / Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
13. Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
14. PS to Finance Secretary.
15. All Section Officers / Budget Officers In Finance Department.

SECTION OFFICER (FR)

LEGIBLE COPY

GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

Anna

E

No. SO(FR)FD/7-13/2017/0253

Dated Peshawar the 07.03.2018

36

NOTIFICATION

No. FD.SO(FR)7-13/2017/6253. In pursuance of recommendations of the up gradation committee and approval granted by Competent Authority/Sanction is hereby accorded to the upgradation of the post of Sub-Engineer from BPS-11/12 to BPS-16 (one time) as personal to the incumbent having 10 years or more service at their credit in the same scale in all the Government Department of Khyber Pakhtunkhwa with immediate effect.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Abbas  
L.A. Peshawar High Court

Endst No. & Date even

Copy of the above is forwarded for information and necessary action to the:-

1. PS to Additional Chief Secretary FATA.
2. All Administrative Secretaries Government of Khyber Pakhtunkhwa.
3. Senior Member, Board of Revenue Khyber Pakhtunkhwa.
4. Accountant General, Khyber Pakhtunkhwa Peshawar.
5. Secretary to Governor, Khyber Pakhtunkhwa Peshawar.
6. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. Secretary Provincial Assembly, Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. Registrar, Peshawar High Court, Peshawar.
10. Registrar, Service Tribunal Khyber Pakhtunkhwa.
11. The Treasury Officer, Peshawar.
12. All District / Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
13. Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
14. PS to Finance Secretary.
15. All Section Officers / Budget Officers In Finance Department

SECTION OFFICER (FR)

55

37

5

239



Government of Khyber Pakhtunkhwa  
Law, Parliamentary Affairs &  
Human Rights Department

No. SO(OP-II)/LD/15-2/2012-VOL-V / 31582-83  
Dated: Pesh / 8 September, 2018

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Communication & Works Department.

Disc: No

Date

Secretary Law Deptt:

Attention:

Section Officer (Estb)

8357  
18-9-18  
25/9 AS/D&A / SO(E)

Subject

Grant of Senior Scale Sub Engineer (BS-16) 10 Years Service + B-Grade  
Passed Examination

Dear Sir,

I am directed to refer to your Department's letter No. SOE(C&WD)13-1/2012 dated 10/09/2018 on the subject noted above and to state that as the applicant Zawar Din (Sub Engineer) named is not included in the list of applicants in the Service Appeal No.1330/2010, hence, (the instant case covered under the Rule of good governance as incorporated in the dictum of Apex Court, 1996 SCMR 1185 in titled case Hameed Akhtar Niazi Vs Secretary Establishment Division Govt: of Pakistan and others. The Service Tribunal Khyber Pakhtunkhwa in above mentioned Service Appeal in its Judgement dated 02-03-2016 at para-30 directed as "though adequate number of Engineers seeking Senior Scale are present before us, but there is likelihood that certain civil servants might not have approached this tribunal to litigate for their claim. We therefore, direct that benefits of this Judgement be extended to those sub engineer who fulfilled the criteria becoming senior scale sub engineer at the relevant time" and circulated directions to the Provincial Government for guidance and compliance among all the Government Department.

2. Hence, the Administrative Deptt: may examine the case that whether the (non litigant) applicant who filed the representation similarly placed persons to those of the petitioners in the Judgement of Service Tribunal dated 02-03-2016 in compliance of which their orders for senior Scale Stenographer were issued or otherwise and the comparison is to be made on the basis of apple to apple (like for like comparison).

Yours faithfully,

Section Officer (Opinion-II)

Endst: of even No. date.

Copy is forwarded to the PS to Secretary, Law Department.

Section Officer (Opinion-II)

Muhammad Asjad Pervez Abbasi  
Advocate High Court



38

5

GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/13-1/2012  
Dated Peshawar, the Dec 18, 2018



To: The Chief Engineer (Centre)  
C&W, Peshawar

Subject: GRANT OF SENIOR SCALE SUB ENGINEER (BS-16) ON THE BASIS  
10 YEARS SERVICE + B-GRADE PASSED EXAMINATION

I am directed to refer to the subject noted above and state that Khyber Pakhtunkhwa Service Tribunal vide judgment dated 02.03.2016 in Service Appeal No.1330/2010 allowed large number of Sub Engineers Senior Scale (BS-16) with retrospective effect with the directions that the benefit of this judgment be extended to those Sub Engineers who fulfilled the criteria of becoming Senior Scale at the relevant time. In this regard Mr. Zewer Din Sub Engineer & 31 others have also fulfilling criteria for Senior Scale (BS-16) in light of the Service Tribunal judgment (copy enclosed for ready reference).

2. Since the appeals are based on the court order, as such the Law Department also advised (copy enclosed), with the request to furnish the following documents/information in respect of the eligible 32 Nos Diploma Holder Sub Engineer within 03 days positively:-

- i. Synopsis of ACRs of the Sub Engineers (1st attached).
- ii. Certificate regarding non-involvement of departmental/judicial inquiry against the officials, neither involved in any NAB case nor entered into plea bargain with National Accountability Bureau (NAB) prior to 2003, the date on which their juniors were awarded Senior Scale/Selection Grade (BS-16).

(ABDUR RASHID KHAN)  
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar

SOE.  
20.12.18  
SECTION OFFICER (Estb)

Muhammad Asjad Pervez Abbasi  
Advocate High Court

Attested

to be true copy



39



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT  
No. SOG/C&WD/11-137/2012  
Dated Peshawar, the July 20, 2022

To  
The Chief Engineer (Centre)  
C&W Peshawar

Subject: Grant of Senior Scale/Selection Grade (BS-16) in light of Peshawar High Court Decision dated 06.04.2021 and Khyber Pakhtunkhwa Service Tribunal Judgment dated 29.11.2021

1. I am directed to refer to the subject noted above and to state that Syed Attiq-ur-Rehman Sub Engineer filed Execution Petition in Service Tribunal for grant of Senior Scale/Selection Grade BS-16. The court has disposed of the referred service appeal. Copy of the same is enclosed.

2. Similarly, Mr. Zewar Din Sub Engineer along with 16 others were also filed writ petition in Peshawar High Court Peshawar for grant of Senior Scale BS-16 on the basis that their juniors were granted selection grade BS-16 w.e.f. 04.09.2003. The Hon'able court in its judgment dated 06.04.2021 disposed of the petition directing the respondents to consider the petitioners grievance brought by them before this court in light of the judgment delivered by the Khyber Pakhtunkhwa Service Tribunal dated 02.03.2016 which has been upheld by the Hon'able Supreme Court of Pakistan vide judgment dated 13.02.2017. Copies are enclosed.

3. As per procedure, the judgment of PHC dated 06.04.2021 was referred to the scrutiny committee of Law Department. The scrutiny committee in its meeting held on 05.05.2021 decided to return the case to Administrative Department with the remarks that "filing of CPLA against the judgment would be futile exercise". Similarly, the Service Tribunal judgment also referred to Law Department for placing before their scrutiny committee. Accordingly, the Law Department placed the case before scrutiny committee, wherein it was decided to submit Implementation report and apprise the Khyber Pakhtunkhwa Service Tribunal from the facts of the case.

In order to proceed further in the matter, it is therefore, requested to furnish the following documents/information in respect of 17 Nos Diploma Holder Sub Engineers/01 No. Graduate Sub Engineer total 18 Nos:-

- i. Synopsis of ACRs of the Sub Engineers (list attached)
- ii. Certificate regarding non-involvement of departmental/judicial inquiry against the officials, neither involved in any NAB case nor entered into plea bargain with National Accountability Bureau (NAB) prior to 2003, the date on which their juniors were awarded Senior Scale/Selection Grade (BS-16).

C.E. C&W Dept (Centre)	4
Copy No	65
Date	25/7/22
Case No	
S.E. C&W	
S.E. (H.O)	
S.E. (B&F)	
O	
O	
S&AO	
D	

(MUDDASIR KHAN)  
SECTION OFFICER (General)

Endst even No. & date

Copy forwarded to the:

1. PS to Secretary, C&W Department, Peshawar
2. PA to Additional Secretary C&W Department Peshawar
3. PA to Deputy Secretary (Admn) C&W Department Peshawar

Muhammad Asjad Pervez Abbasi  
Advocate High Court

Advocate P.A.O

SECTION OFFICER (General)

(40)

**List of Sub Engineers who filed writ petition before PHC  
Peshawar for the Senior Scale Selection Grade BS-16**

Sr.No.	Name	Address
1	Zewar Din S/O.Rehman ud Din	Municipal Colony Street No.2 Mohallah Raf Kohat Road Peshawar
2	Waheed Ahmad S/O Umar Bakhsh	House No.1913 Mohallah Kakye Khelan Yak Peshawar
3	Mushtaq Ali S/O Sherin Gul	Village Hasan Khel P.O. & Tehsil Mir Ali Nori Waziristan
4	Asmat Ullah-II S/O Hameed Ullah	Street No.2 Mohallah Qadoos Abad Grid Ro. DIKhan
5	Hafeez-ur-Rehman S/O Habib-ur-Rehman	Aziz Abad Murshad Abad Kohat Road Peshawar
6	Muhammad Naeem-III S/O Muhammad Ashraf	House No.4283 street No.3 Kakshal Peshawar
7	Iftikhar Babar S/O Fazal Ellahi Babar	Street No.2 Peshawar Modal Town Warsak Peshawar
8	Muhammad Shaukat S/O Abdur Rehman	Chakeer Road Tanki Mor, Mohallah Noor, Pur Mansehra
9	Irshad Ahmad Khan-I S/O Sardar Kala Khan	Changa House Sardar Street Javed Shaheed Road Mandian Abbottaba
10	Muhammad Sajjad S/O Abdul Haleem	House No.4421 Mohallah Afridi Khan Tehsil 8 District Peshawar
11	Inayat-ur-Rehman S/O Muhammad Ismail	Ziarat Talash P.O. Khas Timergara Dir Lower
12	Muhammad Iqbal S/O Fazal Malik	House No.119 Street No.7, Sector 3, Phase-IV Hayat Abad Peshawar
13	Ibad Ullah S/O:Muhammad Karim	Mohallah Piran village Utmanzai Tehsil & Dist Charsadda
14	Muhammad Hayat S/O Noman Kalim	Mohallah Sanam Ghari village Utmanzai Tehsil District Charsadda
15	Shahzad Hassan S/O Sher Hassan	Private House.3, Civil Colony Kohat Road Peshawar
16	Akbar Ali S/O Muhammad Akbar	Hafiz Abad Manga Dargai Tehsil & District Charsadda
17	Muneer Khan S/O Jafar Khan	Ekka Ghund Tehsil & District Mohmand
18	Syed Atiq-ur-Rehman	Retired Sub Engineer C&WD

3154969608

Muhammad Asjad Pervez Abbasi  
Advocate High Court

GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATIONS & WORKS DEPARTMENT

No. SOG/C&W/3-365/2015  
Dated Peshawar the: 31.10.2022

NOTIFICATION:

NO./SOG/C&W/3-365/2015: Consequent upon the recommendations of the Departmental Promotion Committee meeting held on 18.10.2022, the Competent Authority has been pleased to grant Senior Scale BS-16 in respect of the following Sub Engineer C&W Department w.e.f 04.09.2003 (the date on which their Juniors were awarded Senior Scale (BS-16)) in pursuance of execution petition No 350/2018 in Service Appeal no 1330/2010 decided on 02.03.2016.

S.No	Name	Father Name
01.	Zeyar Din (Retired)	Rehman Ud Din
02.	Waheed Ahmad (Retired)	Umar Bakhsh
03.	Mushaq Ali	Shorin Gul
04.	Asmat Ullah	Hameed Ullah
05.	Hafeez Ur Rehman (Retired)	Hanib Ur Rahman
06.	Muhammad Naeem-III (Retired)	Muhammad Ashraf
07.	Mikhar Babar (Retired)	Fazal Iqbal Babar
08.	Muhammad Shaukat	Abdur Rehman
09.	Ishad Ahmad Khan-I (Retired)	Sardar Kala Khan
10.	Muhammad Sajjad	Abdul Faqeer
11.	Inayat Ur Rehman (Retired)	Muhammad Ismail
12.	Muhammad Iqbal (Retired)	Fazal Malik
13.	Iqbal Ullah (Retired)	Muhammad Karim
14.	Muhammad Hayat	Noman Kalim
15.	Shahzad Hasan	Sheer Hassan
16.	Akbar Ali	Muhammad Akbar
17.	Muneeb Khan	Jafar Khan

SECRETARY TO GOVT. OF KHYBER  
PAKHTUNKHWA, C&W DEPARTMENT

ENDST OF EVEN NO. & DATE:-

Copy for information is forwarded to:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department Peshawar.
3. Secretary to Govt. of Khyber Pakhtunkhwa Finance Department Peshawar.
4. Chief Engineer (Center) C&W Department.
5. PS to Secretary C&W Department.
6. Section Officer (E), C&W Department.
7. Official Concerned.
8. Office Order File/ Personal File.
9. Master File 2022.

(MUBASIR KHAN)

2

OFFICE OF THE  
EXECUTIVE ENGINEER  
BUILDING DIVISION HARIPUR.  
No. 657 12-E  
Dated Haripur the 22/06/2023

To,

The Superintending Engineer,  
C&W Circle Abbottabad.

Arind F<sup>3</sup>  
42

Subject: -

APPEAL FOR:-  
GRANT OF SENIOR SCALE/SELECTION GRADE (BS-16)  
IN LIGHT OF PESHAWAR HIGH COURT DECISION DATED  
06/04/2021 AND KHYBER PAKHTUNKHWA SERVICES  
TRIBUNAL JUDGEMENT DATED 29/11/2021.

An appeal along with relevant documents in respect of Mr Muhammad Haroon Sub Divisional Officer Building Project Sub Division Haripur requesting for the grant of BS-16 with effect from 04/09/2003 which self explanatory is submitted herewith for information and onward submission to higher-ups authority for favourable action please.

DA/As above

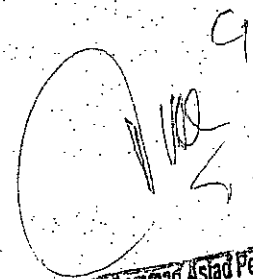
  
EXECUTIVE ENGINEER

Copy to:

Mr Muhammad Haroon Sub Divisional Officer Building Project Sub Division Haripur with reference to his appeal dated 28/04/2023 for information.

  
EXECUTIVE ENGINEER



  
Muhammad Asjad Pervez Abbas  
Advocate High Court

To,

93

The Secretary,  
Government Khyber of Pakhtunkhwa,  
C&W Department Peshawar.

Subject}

**APPEAL FOR:-**  
**GRANT OF SENIOR SCALE/SELECTION GRADE (BS-16)**  
**IN LIGHT OF PESHAWAR HIGH COURT DECISION DATED**  
**06/04/2021 AND KHYBER PAKHTUNKHWA SERVICES**  
**TRIBUNAL JUDGEMENT DATED 29/11/2021.**

Through

Proper channel.

Respected Sir,

Kindly refer to your good office Notification No SOG/C&W/3-365/2015 dated 31/10/2022 (Photo copy enclosed for ready reference).

With due respect, I humbly submit the following grievances for your kind perusal and favourable action please.

1. I was appointed as Sub Engineer (BS-11) with effect from 22/12/1990 vide Chief Engineer, C&W Department NWFP Peshawar Office Order No 848/3-E/2697/E-1(2) dated 22/12/1990 and posted in the Office of the Executive Engineer, Highway Division Manshara.
2. At present I am posted as Sub Divisional Officer (OPS), Building Project Sub Division Haripur in Office of the Executive Engineer Building Division Haripur
3. I had passed my Departmental Professional Examination (As Sub Engineer). (Photo copy enclosed)
4. In pursuance of Govt. of KPK Finance Department Peshawar Notification No SO(FR)FD/7-13/2017/6253 dated 07/03/2018, the Post of Sub Engineer from BS-11/12 to BS-16 was upgraded to incumbents having 10-years or more service at their credit in the Same Scale in all the Govt. Department of Khyber Pakhtunkhwa. (Copy enclosed).
5. In compliance of decision of Supreme Court of Pakistan Islamabad, other 55-Nos Sub Engineer were also granted BS-16 w.e. from 04/09/2003 vide Secretary to Govt. of KPK C&W Department Peshawar Notification No SOE/C&WD/4-2/2018 dated 30/04/2018 but I was again deprived of said facility (Copy enclosed).
6. In addition to the above, further 17-Nos Sub Engineers who were junior then me have been recently granted BS-16 w.e. from 04/09/2003 vide Secretary to Govt. of KPK C&W Department Peshawar Notification No SOG/C&WD/13-365/2015 dated 31/10/2022, but it is astonishing to note that even in the said Notification my name was not included which seems in justice with me (Copy enclosed).
7. It is worth mentioning here, that most of Sub Engineer BS-11/12 Junior most than me were granted BS-16 w.e. from 04/09/2003, but I, being Senior most Sub Engineer has been constantly ignored from the same facility due to un-known reason and facing great financial loss.

In view of position explained above, I, approach to your good self to kindly look into the matter personally and it is requested that I may kindly be granted Senior Scale BS-16 with effect from 04/09/2003 accordingly, for which I shall be highly thankful to your good self.

Dated 28/04/2023.

Muhammad Asjad Pervez Abbas  
Advocate High Court

Your's Obediently

(MUSAMMAD HARGON)  
SUB DIVISIONAL OFFICER  
BUILDING PROJECT SUB DIVISION HARIPUR

کورٹ فیس  
قیمتی

وکالت نامہ (44)

بعدالت: مشیر صدر دہلی ڈسٹریکٹ کورٹ مستاد

عنوان: محمد یاروانے نام: محمد عرفان

منجانب: مشیر صدر ایڈووکیٹ

نوعیت مقدمہ: سرویس (سپل)

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی وجواب دعویٰ کل کاروائی متعلقہ اس مقام

سپر داچھ (ادخلہ) محمد اسرار محمد صاحب ایڈووکیٹ

بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پکھری کے علاوہ کسی اور جگہ سماعت ہونے پر یا بروز پکھری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پر داختم صاحب مکمل کردہ ذات خود منظور و قبول ہو گا اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط صدیق کرنے کا بھی اختیار ہو گا۔ اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کارروپیہ وصول کرنے اور رسیدہ دینے اور داخل کرانے کا ہر قسم کا بیان دینے اور سپرد وراثی اور رضی نامہ و فیصلہ بر خلاف کرنے و اقبال دعویٰ کا اختیار ہو گا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یک طرفہ درخواست حکم انتہائی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو شرط ادا ہوگی علیحدہ پیروی مختار نامہ کرنے کا مجاز ہو گا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا پیر سز کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہو گا۔ لہذا مختار نامہ لکھ دیا ہے کہ سند ہے۔ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

13503-0608518-1

المرقوم: محمد اسرار محمد

بمقام:

محمد اسرار محمد  
Advocate High Court

محمد اسرار محمد  
Advocate High Court