

19.05.2023

Junior of learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Muhammad Kashif, Assistant Director for the respondents present.

Reply/comments on behalf of respondents No. 1 to 5 submitted which are placed on file. Copy of the same handed over to junior of learned counsel for the appellant. Reply/comments on behalf of respondent No. 6 are still awaited. Learned Assistant Advocate General seeks time to contact respondent No. 6 for submission of reply/comments. Last opportunity is granted. To come up for reply/comments of respondent No. 6 on 12.06.2023 before S.B. Parcha Peshi given to the parties.

(Muhammad Akbar Khan)
Member (E)

12.06.2023

Clerk to counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Naveed Khan, Assistant for the respondents present.

Reply on behalf of the respondents No.1 to 5 has already been submitted. Learned AAG requests for further time to contact the respondent No.6 for submission of reply/comments; granted with direction to submit the same on the next date positively, failing which, right of respondent No.6 for submission of reply shall be deemed as struck off. To come up for reply/comments of respondent No.6 as well as arguments on 06.09.2023 before D.B. Parcha Peshi given to the parties.

(Muhammad Akbar Khan)
Member (E)

SCANNED
KF : F
Peshawar

SCANNED
KPST
Peshawar

17.02.2023

Counsel for the appellant present.

Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections.

The appellant is directed to deposit security fee within 10 days. Thereafter, notice be issued to respondents for

submission of written reply/comments. To come up for written reply/comments on 07.04.2023 before S.B.

SCANNED
Peshawar

Appellant Deposited
Security & Process Fee

29/3/23

(Rozina Rehman)
Member (J)

07th April, 2023

Clerk of counsel for the appellant present. Mr. Asad Ali Khan, Assit. AG alongwith Sultan Said, Deputy Director for the respondents present.

Reply/comments on behalf of respondents not submitted. Representative of the respondents requested for further adjournment. To come up for written reply/comments on 19.05.2023 before the S.B. Parcha Peshi given to the parties.

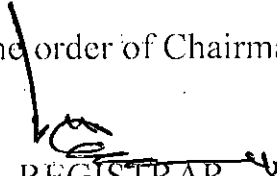
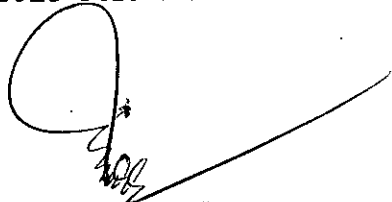
SCANNED
Peshawar

(Fareeha Paul)
Member(E)

FORM OF ORDER SHEET

Court of _____

Case No.- 97/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	9/1/2023	<p>The appeal of Mr. Asad Ali Shah resubmitted today by Syed Noman Ali Bukhari Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>11.1.23</u>. Parcha Peshi is given to appellant/counsel.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>
	11.01.2023	<p>Clerk of learned counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High, Court. Adjourned. To come up for preliminary hearing on 17.02.2023 before S.B.</p> <p style="text-align: right;">  (Mian Muhammad) Member (E)</p>


SCANNED
KPST
Peshawar

The appeal of Mr. Asad Ali Shah Assistant Treasury Officer Siran Right Bank Canal project Irrigation Department received today i.e. on 21.12.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Address of respondent no.6 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Check list is not attached with the appeal.
- 3- Copy of regularization order in respect of appellant mentioned in para-4 of the memo of appeal is not attached with the appeal.
- 4- Page Nos.8 to 11, 13 to 18, 24, 31 & 33 of the appeal are illegible which may be replaced by legible/better one.

No. 3683 /S.T,


Dt. 22/12 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M.Asif Yousafzai Adv.
High Court Peshawar.

Six.

all objection (1 to 4) were removed. The address of Respondent no 6 is the Chairman SSRC, Establishment department, KP Peshawar and resubmitted again.


Syed Noman Adil Shah
9-1-2023

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. **97** /2022**3**

Asad Ali Shah

V/S

Finance Deptt: & etc.

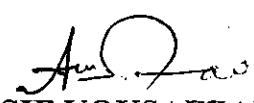
INDEX

S.NO.	Documents	Annexure	Page No.
1.	Memo of appeal	-----	1-6
2.	S.t Judgment	A	07-09
3.	Copy of acting charge order	A-1	10-11
4.	Copy of regularization order	B	12
5.	Copy of supreme court judgment	C	13-18
6.	Copy of notification	D	19-20
7.	Copy of departmental appeal	E	21-25
8.	Copy of rules	F	26-30
9.	Copy of CGA rules	G	31-34
10.	Vakalat nama	-----	35

APPELLANT


Asad Ali Shah

THROUGH:


(M. ASIF YOUSAFZAI)
ASC

&

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT.

OFFICE:

Room No. FR-08, 4th Floor
Bilour Plaza, Peshawar Cantt:
03129103240
03065109438

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. **97** /2023

Mr. Asad Ali Shah, Assistant Treasury Officer (BPS-17),
In Siran Right Bank Canal Project Irrigation Department,
Mansehra.

(Appellant)

VERSUS

1. The Provincial Govt: through Chief Secretary KP, Peshawar.
2. The Chief Secretary Govt of KP, Peshawar.
3. The Secretary Establishment, KP, Peshawar.
4. The Finance Secretary KP, Peshawar.
5. The Director Treasuries & Accounts, KP Peshawar.
6. The Chairman SSRC, KP Peshawar.

(Respondents)

APPEAL UNDER SEC- 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 FOR DIRECTING THE RESPONDENTS TO CONSIDER THE APPELLANT FOR ANTI-DATED PROMOTION/SENIORITY ON REGULAR BASIS W.E.FROM 31.05.2013 (WHEN PROMOTED ON ACTING CHARGE BASIS) WITH ALL BACK AND CONSEQUENTIAL BENEFITS, AND FOR RATIONALIZATION OF RULES DATED. 10.08.2018 BEING DISCRIMINATORY AND BASED ON INEQUALITIES, AND AGAINST NOT DECIDING DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

PRAYER:

IT IS THEREFORE, VERY HUMBLY PRAYED THAT THIS HONORABLE TRIBUNAL MAY GRACIOUSLY BE PLEASED TO ACCEPT THE APPEAL AS FOLLOWS:-

1. **THE RESPONDENTS MAY BE DIRECTED TO ANTI-DATE PROMOTION/SENIORITY ON REGULAR BASIS W.E.FROM 31.05.2013 WITH ALL BACKS AND CONSEQUENTIAL BENEFITS AS PER JUDGMENT DELIVERED IN C.AS NO.860 TO 861 OF 2010 DATED 24/05/2012 AND NOTIFICATION DATED 25/07/2012 ON THE BASIS OF PARITY AND**

(1)

**PRINCIPAL OF CONSISTENCY IN LIGHT OF JUDGMENT
REPORTED AS 2009 SCMR 1 AND 2018 SCMR 380**

- 2. THAT RESPONDENTS MAY FURTHER BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF DISTRICT ACCOUNTS OFFICER BS-18.**
- 3. THAT THE RESPONDENT MAY BE DIRECTED TO RATIONALIZE THE SERVICE RULES IN EQUITABLE MANNER TO PROVIDE PROMOTION CHANCES TO ALL EMPLOYEE EQUALLY.**
- 4. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER THAT MAY ALSO BE GRANTED IN FAVOUR OF THE APPELLANT**

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant has good service record through out in long tenure of service and no complaint has been filed against the appellant so far.
2. That previously the appellant and his some colleagues had filed a Service Appeal No. 301/2009 which was decided on 16.07.2009 and the august Tribunal was kind enough to agree with the contention of appellant that there should be a Roster & Cycle for Initial quota, promotion on seniority and for promotion on qualification of SAS. of SAS. The appeal was thus disposed of. **Copy of judgment is attached as Annexure – A.**
3. That the appellant was previously serving as Assistant Accountants (BPS-16) in the relevant department. The appellant was promoted to the post Assistant Treasury Officers (BS-17) on Acting Charge Basis with immediate effect vide order dated 31.05.2013. **Copy of the acting charge order is attached as Annexure-A-1).**
4. That the appellant had been serving on the above said post on acting charge basis for more than 6 years and appellant was regularized on the post of Assistant treasury Officer (BS-17) vide order 12/02/2018 with immediate effect. **Copy of regularization Order is attached as Annexure-B.**
5. That, some employees being on the same footings had approached the Service Tribunal and a detailed Judgment with regard to the

(3)

regularization of the appellant was issued by the Service Tribunal in Appeal No.612 and 613/2008 dated 13.3.2009, whereby the above said relief was granted to the appellants by the Tribunal. The said Judgment of the Service Tribunal was challenged before the Supreme Court by the Establishment Department and the Honourable Apex Court was kind enough to give an elaborated and detailed judgment with regard to the same grievance on 24.05.2012. **Copy of the supreme court's Judgment is attached as Annexure-C.**

6. That as a result of the above said judgment of the Honourable Supreme Court of Pakistan the notification with regard to the anti-date promotion of the employees from the dates of their taking acting charges on the relevant posts was issued. **Copy of the said notification dated 25.07.2012 issued by the Establishment Department is attached as Annexure-D.**
7. That after the Judgment of the Service Tribunal, and Supreme Court, the appellant also filed departmental on 23/08/2022 for antedating seniority/promotion and rationalization of rules, which was not decided within statutory period of 90 days . **Copy of departmental appeal is attached as Annexure-E).**
8. That now the appellant comes to this august Tribunal on the following grounds amongst the others.

GROUND:

- A) That not antedating the promotion/seniority of the appellant from the date of acting charge promotion, not rationalizing present rules and as well as not deciding the appeal of appellant with statutory period are against the law, fact, norm of justice and material on record. Therefore liable to be set aside.
- B) That the appellant was promoted to post of BPS-17 on dated 31.05.2013 on acting charge basis meaning by that the post of BPS-17 were available and the appellant was eligible too at that time and according to Superiors Courts judgment that if post is available then civil servant should be promoted on regular base rather than acting charge basis.
- C) That the some employees on the same issue have filed Service Appeals No. 612/2008 and 613/2008 in this Service Tribunal and the Honourable Service Tribunal allowed the appeal and the relief

was granted to the appellant. The judgment of the Tribunal was challenged by the Deptt in the Supreme Court of Pakistan which also uphold the decision of the Service Tribunal and the basis of Supreme Court judgment and Service Tribunal Judgment the Establishment Deptt: issued the notification dated 25.7.2012, whereby anti-date promotion was given to the employees from the date of their taking charge on relevant posts. So the appellant is on same footing and need to be treated at par under the rules of consistency and law of good governance as held by the supreme court of Pakistan in judgment cited as 2009 SCMR 1 and 2018 SCMR 360.

- D) That In another case Government of Khyber Pakhtunkhwa Vs Azam Khan, the Supreme Court of Pakistan upheld the decision of the Khyber Pakhtunkhwa Service Tribunal in the Service Appeal No.1358/2000 on 05.03.2015 and granted relief to the appellant.
- E) That in another Writ Petition No.2640-8/2012, Abdus Samad and other Vs Government of Khyber Pakhtunkhwa, the Peshawar High Court Peshawar granted relief to the petitioners by extending the benefit of judgments in the similar cases.
- F) That the Khyber Pakhtunkhwa Service Tribunal has decided in the Service Appeal No.1589/2011 Muhammad Jamil Vs Government of Khyber Pakhtunkhwa to allow the benefits of the judgments in the service appeal, cited above in the same manner as was prescribed and indicated in the above judgments.
- G) That the rules of the Finance department dated 10/08/2018 are irrational, disadvantageous and inequitable, Which is violation of Civil Servant Act 1973 and Article 38 of the Constitution of the Islamic Republic of Pakistan. Because, junior inductees in BPS-17 are promoted to BPS-18 without any departmental exams like SAS, APE, PIPFA, while senior most staff in BPS- 17 are left from the promotion chances, therefore , there should be a quota for SAS qualified staff for BPS-18 as in BPS- 17. So the rules may be rationalized according to the rules of Controller General of Accounts which a similar Deptt: with same job descriptions and functions. **Copy of rules 10.08.2018 and CGA rules is attached as annexure-F & G.**
- H) That the inaction of the respondents as well as not rationalizing the rules dated. 10.082018 are against the spirit of Article 2A,4,9,25,38 of the Constitutions as well as in violation of principles of equity, equality, fair play and justice.

5


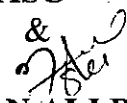
- I) That the appellant is similar placed person and also entitled for the same benefits.
- J) That the appellant was discriminated as many of his colleague have given anti-date promotion, while the appellant was deprived from the same benefits.
- K) That the appellant seeks permission to advance other grounds and proofs at the time hearing.

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

APPELLANT

Asad Ali Shah

THROUGH:


(M. ASIF YOUSAFZAI)
ASC
&

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT.


CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.


DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.
4. Judgments referred above.


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT.

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2022

Asad Ali Shah

V/S

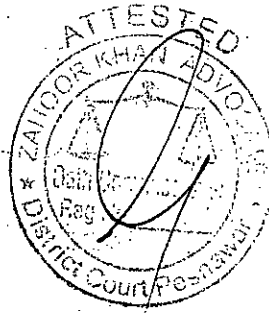
Finance Deptt: & etc.

AFFIDAVIT

I, Asad Ali Shah (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.


DEPONENT

Asad Ali Shah



A (7)

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 301/2009

Date of Institution ... 21.2.2009
Date of Decision ... 16.7.2009

Ikramullah, Sub-Accountant,
District Accounts Office, Swabi. ... (Appellant)

VERSUS

1. The Government of NWFP, through Chief Secretary, NWFP Peshawar.
2. The Secretary Establishment & General Administration Department, NWFP Peshawar.
3. The Secretary, Finance Department, NWFP Peshawar. (Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT 1974
AGAINST THE IMPUGNED NOTIFICATION DATED 24.5.1981 AND
AMENDED NOTIFICATION DATED 03.11.2006 WHEREBY DISCRIMINATORY
AND IRRATIONAL RULES NOTIFIED AND AGAINST NOT TAKING ACTION
ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY
PERIOD.

MR. MUHAMMAD ASIF YOUSAFZAI,
Advocate. ... For appellant.

MR. JAMAL ABDUL NASIR,
Addl. Government Pleader, ... For respondents.

MR. JUSTICE (R) SALIM KHAN,
S. MANZOOR ALI SHAH, ... CHAIRMAN.
MEMBER.

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN:- This service Appeal No. 301 of 2009 by Ikramullah, and Service Appeals No. 302 of 2009 by Pervez Khan, No. 303 of 2009 by Muhammad Saeed, No. 304 of 2009 by Ashfaq-ur-Rahman, No. 305 of 2009 by Taj Muhammad, No. 306 of 2009 by Wahid Bakhsh, No. 307 of 2009 by Imtiaz Ali, No. 308 of 2009 by Khairullah, No. 309 of 2009 by Zahoor Khan, No. 310 of 2009 by Muhammad Naeem-II, No. 311 of 2009 by Sahibzada Khan, No. 312 of 2009 by Shafiq-ur-Rahman, No. 313 of 2009 by Muhihammad Shamrez, No. 314 of 2009 by Noor-ul-Amin, No. 316 of 2009 by M. Saifullah, and No. 317 of 2009 by Amjad Khan, are of the same nature, involving the same legal questions. These appeals are, therefore, taken together for discussion and decision.

2. The appellant of this appeal contended that he was appointed, alongwith other co-appellants, on different dates, in the Treasury Department.

Rules were framed and notified on 24.5.1981, through which 31% quota was prescribed for promotion on the basis of seniority-cum-fitness from amongst the holders of the posts of Assistant Accountants, and 69% quota was reserved for promotion of (a) Assistant Accountants who have qualified S.A.S Examination, and (b) if no Assistant Accountants, who have qualified S.A.S examination, were available, then Sub Accountants, who have qualified S.A.S examination, on the basis of seniority-cum-fitness. The rules were modified on 3.11.2006. 20% quota was reserved for initial recruitment, further 20% quota was reserved for promotion on the basis of seniority-cum-fitness from amongst the holders of the posts of Assistant Accountants, while the remaining 60% vacancies were left for promotion on the basis of seniority-cum-fitness from amongst the holders of the posts of (a) S.A.S qualified Assistant Accountants and (b) if no such Assistant Accountants were available, then from Sub-Accountants, who have qualified S.A.S Examination. The appellant contended that the rules were irrational and discriminatory. The appellants submitted appeals severally and through their union. Writ Petition No. 1978 of 2006 was filed which was returned vide order dated 27.10.2008. Hence the present appeals.

3. The respondents contested the appeals. They contended that the new rules were neither discriminatory nor irrational nor contradictory, that the appeals are against the provisions of Section 22(2) of the NWFP Civil Servants Act, 1973, and that the appellants have not submitted departmental appeals.

4. We heard the arguments and perused the record.

5. The Writ Petition could be considered as departmental appeal also, as it served the purpose of informing the official respondents regularly regarding the grievances of the appellants, and providing them an opportunity of the prescribed period to consider their grievances. As the Writ Petition has been sent to this Tribunal, the period spent for pursuing the mentioned Writ Petition is condoned. The present appeals are a challenge to the rules themselves and are not regarding the fitness or otherwise of the appellants for holding or for promotion to a post on ascertaining their eligibility for holding a certain post.

6. The learned counsel for the appellants contended that the quota for S.A.S qualified Assistant Accountants has been decreased while 20% quota for initial recruitment and 20% quota for promotion of the Assistant Accountants, who have not qualified S.A.S qualification, has been carved out and prescribed. The

comparative consideration of both the sets of the rules (Rules dated 24.5.1981 and Rules dated 3.11.2006) show that 20% quota has been reserved for initial recruitment, by deducting 13% quota from the Assistant Accountants who have not qualified S.A.S. and by reducing 7% from the quota of S.A.S qualified Assistant Accountants/Sub Accountants. The Government has the prerogative to prescribe the rules prospectively, and to create a place for direct recruitment. The quota of both classes of Assistant Accountants, and, consequently, of Sub Accountants, has been reduced, and no discrimination has been made to any of these classes.

7. It is expected that the system of Roster and Cycles shall be strictly adopted for the purposes of recruitment/appointment to the posts of Assistant Treasury Officer. A set of five vacancies available on, or after, 3.11.2006 shall be declared one cycle, and the first of these five vacancies will be allotted to the direct recruit while the second vacancy will be allotted to the Assistant Accountant, who has not qualified S.A.S examination, on the basis of seniority-cum-fitness; The remaining three vacancies of each Cycle will be reserved for promotion of the S.A.S qualified Assistant Accountants or, if the Assistant Accountants are not available, for the Sub-Accountants, who have passed S.A.S examination. The first vacancy of direct recruits shall not be given to the other two groups, and vice-versa. An Assistant Accountant, on his passing S.A.S examination, shall be given the option to claim vacancy either in the second or in the third category. But once that option is exercised, his category shall not be changed in future. The vacancies of S.A.S qualified Assistant Accountants shall be filled through them on the basis of their seniority fixed with respect to the dates of their passing of the S.A.S examination, and not on their simple seniority as Assistant Accountants.

8. With the above explanations and observations, we have come to the conclusion that the fresh rules could be framed by the Government, which are neither irrational nor discriminatory, nor prejudicial to the rights of the appellants.

9. We, therefore, dispose of the present appeals with the above explanation and observations. The parties are left to bear their own costs.

ANNOUNCED
16.7.2009

(S. MANZOOR ALI SHAH)
MEMBER

(JUSTICE (R) SALIM KHAN)
CHAIRMAN



GOVERNMENT OF KEYBER PAKHTUNKHWA
FINANCE DEPARTMENT
Date: Peshawar, 31-03-2013

NOTIFICATION

NO.FO(EST)FD/L-55/DFC/2013. On the recommendation of Departmental Promotion Committee, the competent authority has been pleased to approve the following appointments to the posts of Assistant Treasury Officer (Class-I) (BPS-17) on regular/acting charge basis from the date noted against each name mentioned hereunder. They will be on probation for a period of one year extendable for another year:-

S.No	Name of Officers	Remarks
1.	Mr. Fahcem Khan.	Appointed on regular charge basis with immediate effect.
2.	Mr. Ali Zaman.	Appointed on acting charge basis with immediate effect.
3.	Mr. Muhammad Zahir.	Appointed on acting charge basis with immediate effect.
4.	Mr. Muhammad Tahir	Appointed on acting charge basis with immediate effect.
5.	Mr. Asad Ali Shah.	Appointed on acting charge basis with immediate effect.
6.	Mr. Lal Zada.	Appointed on acting charge basis with immediate effect.
7.	Mr. Ayub-ur-Rehman.	Appointed on acting charge basis with immediate effect.
8.	Mr. Khan Shahzada.	Appointed on acting charge basis with immediate effect.

Consequent upon the above, the following officers are relieved of their duties:-

S.No	Name of officers	From	To	Remarks
1.	Mr. Fahcem Khan.	Assistant Treasury Officer (Accounts) District Accounts Office, Peshawar, (on acting charge basis)	Assistant Treasury Officer (Accounts) District Accounts Office, Peshawar, (on regular charge basis)	Relieved of his duties with effect from 31-03-2013.
2.	Mr. Ali Zaman.	Assistant Accounts Officer District Controller of Accounts, Peshawar	Assistant Accounts Officer District Controller of Accounts, Peshawar	Relieved of his duties with effect from 31-03-2013.
3.	Mr. Muhammad Zahir	Assistant Accounts Officer District Controller of Accounts, Peshawar	Assistant Accounts Officer District Controller of Accounts, Peshawar	Relieved of his duties with effect from 31-03-2013.
4.	Mr. Muhammad Tahir	Assistant Accounts Officer District Controller of Accounts, Peshawar	Assistant Accounts Officer District Controller of Accounts, Peshawar	Relieved of his duties with effect from 31-03-2013.
5.	Mr. Asad Ali Shah.	Assistant Accounts Officer District Controller of Accounts, Peshawar	Assistant Accounts Officer District Controller of Accounts, Peshawar	Relieved of his duties with effect from 31-03-2013.
6.	Mr. Lal Zada.	Assistant Accounts Officer District Controller of Accounts, Peshawar	Assistant Accounts Officer District Controller of Accounts, Peshawar	Relieved of his duties with effect from 31-03-2013.
7.	Mr. Ayub-ur-Rehman.	Assistant Accounts Officer District Controller of Accounts, Peshawar	Assistant Accounts Officer District Controller of Accounts, Peshawar	Relieved of his duties with effect from 31-03-2013.
8.	Mr. Khan Shahzada.	Assistant Accounts Officer District Controller of Accounts, Peshawar	Assistant Accounts Officer District Controller of Accounts, Peshawar	Relieved of his duties with effect from 31-03-2013.

6.	Mr. Tal zada	Assistant Accountant o/e District Accounts Office, Lucknow	Assistant Treasury Officer on acting charge Business Division Accounts Office Shanghai	Accounts Officer
7.	Mr. Ayub-ur- Rahman	Assistant Accountant o/e District Accounts Office, Lucknow	Assistant Treasury Officer on acting charge Business Division Accounts Office Shanghai	Accounts Officer
8.	Mr. Khurshid Ahmad	Assistant Accountant o/e District Accounts Office, Lucknow	Assistant Treasury Officer on acting charge Business Division Accounts Office Shanghai	Accounts Officer
9.	Mr. Amir-ud-Din Asst. Acctt (B-10)	Assistant Treasury Officer on acting charge Business Division Accounts Office Shanghai	Assistant Accountant o/e District Accounts Office, Lucknow	Accounts Officer
10.	Mr. Muhammad Shamrez	Assistant Treasury Officer on acting charge Business Division Accounts Office Shanghai	Assistant Treasury Officer on acting charge Business Division Accounts Office Shanghai	Accounts Officer
11.	Mr. Zahir Asst. Acctt (B-1)	Assistant Treasury Officer on acting charge Business Division Accounts Office Shanghai	Assistant Treasury Officer on acting charge Business Division Accounts Office Shanghai	Accounts Officer

SECRETARY TO GOVERNMENT
MINISTRY OF FINANCE
PUNJAB

10/10/50

Copy to

1. Director Treasury and Accounts, Government of Punjab, Lahore
2. District Controller of Accounts, District, Meerut, U.P.
3. District Controller of Accounts, District, Meerut, U.P.
4. Accounts Officer, Meerut, U.P.
5. PS to District Controller of Accounts, Meerut, U.P.
6. PS to District Controller of Accounts, Meerut, U.P.
7. Officers concerned
8. Office files

ES/10/10/50

12

B



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
Dated Pesh: the 12-02-2018

NOTIFICATION

NO.SO(EST)FD/1-55/Promotion/ATO/2018. On the recommendation of Departmental Promotion Committee, the competent authority has been pleased to promote the following Assistant Accountants (working as Assistant Treasury Officer BS-17 on acting charge basis) of Khyber Pakhtunkhwa Treasury Establishment to the posts of Assistant Treasury Officers/Sub-Treasury Officers (BS-17) on regular basis with immediate effect, in the public interest. They will be on probation for a period of one year extendable to another one year:

Sl.#	Name of Officers
1.	Mr. Saeed Khan,
2.	Mr. Muhammad Shamrez,
3.	Mr. Ikramullah,
4.	Mr. Imamtaz Ali,
5.	Mr. Amjad Khan,
6.	Mr. Muhammad Zahir,
7.	Mr. Muhammad Tahir,

Consequent upon above, the following posting / transfer are made henceforth:-

S.#	Name & Designation	From	To	Remarks
1	Mr. Saeed Khan, Assistant Treasury Officer	District Comptroller of Accounts, DIKhan	District Accounts Office, Charsadda	Against vacant post.
2	Mr. Muhammad Shamrez, Assistant Treasury Officer	District Comptroller of Accounts, Abbottabad	District Comptroller of Accounts, Abbottabad	Retained on the same post.
3	Mr. Ikramullah, Sub- Treasury Officer	District Accounts Office, Swabi	District Accounts Office, Swabi	Retained on the same post.
4	Mr. Imamtaz Ali, Assistant Treasury Officer	District Accounts Office, Lakki Marwat	District Accounts Office, Lakki Marwat	Retained on the same post.
5	Mr. Amjad Khan, Assistant Treasury Officer	District Comptroller of Accounts, Abbottabad	District Comptroller of Accounts, Abbottabad	Retained on the same post.
6	Mr. Muhammad Zahir, Assistant Treasury Officer	District Accounts Office, Malakand	District Accounts Office, Malakand	Retained on the same post.
7	Mr. Muhammad Tahir, Assistant Treasury Officer	District Comptroller of Accounts, Mardan	District Comptroller of Accounts, Mardan	He will actualize his promotion in DAO Buner and rejoin the post of A.O. in o/o DC Mardan.

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SECRETARY TO GOVERNMENT OF
KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

(P/2)

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:
MR. JUSTICE EJAZ AFZAL KHAN,
MR. JUSTICE MUHAMMAD ATHER SA'ED.

C. As. No. 860 to 861 of 2010.
(On appeal against the judgment dt
11.3.2009 passed by NWFP Service
Tribunal, Peshawar in Appeals No. 612
and 613 of 2008).

Govt. of NWFP thr. Secy. Establishment and another (In both cases)
Appellants

Versus

Muhammad Iqbal Khattak
Ahmed Khan.

(In CA 860/10)
(In CA 861/10)
Respondents

For the appellants: Mian Muhibullah Kakakhel, Sr. ASC
Miss. Tehmina Munibullah, ASC
Mir Adam Khan, NDK
(in both).

For the respondents: Hafiz S. A. Rehman, Sr. ASC
Mr. Shaukat Ahmed, ASC
(in both).

Date of hearing: 24.05.2012

J U D G M E N T

EJAZ AFZAL KHAN: These appeals with the leave of the
Court have arisen out of the judgment dated 11.3.2009 of the Service
Tribunal whereby appeals filed by the respondents were allowed.
The points raised and noted while granting leave read as

We have heard the learned counsel at some length. We are
inclined to grant leave in-acta on the point as to whether
the legal and factual aspects of the controversy have been
dilated upon and decided by the Tribunal in accordance with
relevant Rules i.e. Rule 3 of the NWFP, Provincial Civil
Service (Secretariat/Executive Group) Rules, 1997 and Rule
9(6) of the NWFP Civil Services (Appointment, Promotion
and Transfer) Rules, 1989. It is also to be examined as to
whether that stop-gap arrangement can be equated to that of
regular promotion and besides that the order passed by the
learned Service Tribunal could be made applicable to all the

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Tehsildars who are awaiting their promotion. Since a short question of law is involved in the matter, therefore, the case be listed after four weeks subject to limitation in the meanwhile operation of the impugned judgment shall remain suspended".

3. Learned counsel appearing on behalf of the appellants contended that though the Governor of the Province in consultation with the Provincial Selection Board was pleased to order the promotion of the respondents in BPS-16 as Extra Assistant Commissioner in BPS-17 in the Ex-PCS (E.B) Cadre with immediate effect on purely temporary basis vide notification dated Peshawar 5th March, 1996, yet it could not earn them any benefit or entitle them to a vested right notwithstanding they have been promoted on regular basis with immediate effect vide notification dated 19.2.2008. Thus, the learned counsel added, could not have claimed any ante-dated promotion even on the occurrence of any vacancy in such scale in violation of Section 3 of the Civil Service Act or Rule 9 of NWFR Civil Service (Executive Grade) Rules, 1977, as decidedly promotion is not a vested right. Appeared before the departmental authority, the learned counsel argued, or before the Tribunal claiming ante-dated promotion was, therefore, misconceived. The learned Tribunal, the learned counsel maintained, could not have allowed such appeal when it tended to mar the seniority of many others in the rank. The learned counsel to support his contention placed reliance on the cases of Wajahat Hussain, Assistant Director, Social Welfare, Lahore and 7 others. Vs. Province of the Punjab, through Secretary, Social Welfare and Zakat, Lahore and 81 others" (PLD 1991-S, C. 82), Sh. Anwar Hussain, Assistant Director, Labour Welfare, Lahore Region, Lahore. Vs. Government of the Punjab through Secretary, Labour Department and others" (1985 SCMR 1201), Nazeer Ahmed. Vs. Government of Sindh through Chief Secretary Sindh, Karachi and 2 others" (2001 SCMR 352), Government of Pakistan through Establishment

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We have gone through the entire record carefully and considered the submission of the learned counsel for the parties.

The record reveals that the Government of the Province in consultation with the Provincial Selection Board was pleased to order promotion of the respondents working in BPS-16 as Extra Assistant Commissioner in BPS-17 in Ex-PCS (E.B) Cadre. The respondents were no doubt promoted on temporary basis in the year 1996. All the same what stands out to be taken notice of is, that it was not done without considering their eligibility and without involving the process of selection as is evident from the order itself. When asked whether the respondents were deficient in terms of qualification or experience to hold the post in the next higher scale at the time they were promoted temporarily the reply of the learned counsel for the appellant was in no. When asked whether there was any impediment in the way of the respondents to be promoted to the next higher scale at the time when a vacancy or two occurred in the said scale again the answer was in no. When asked what restrained the appellants to defer or delay the process of selection to fill one or any number of vacancies occurring from time to time in the next higher scale the reply of the learned counsel was that it was because of confusion created by the devolution plan. This answer too is too vague to be plausible. When asked who was senior to the respondents and whose seniority or ranking seniority has been affected or impaired by the impugned promotion again the learned counsel could not refer to anything on the record.

There is no dispute with the proposition that the terms and conditions of the service of the respondents in view of the provision contained in Rule 10 of NWFC (Non-Secretariat Group) Rules 2007 will continue to be governed by the earlier rules. There is also no dispute with the proposition that if the respondents were to hold a post on a regular basis they could do so on the same on regular basis. In the case of

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CA 1060-06/2010

Division, Islamabad and 7 others Vs. Hamid Akhtar, Akhtar, Niazi, Academy of Administrative, Walton Training, Lahore and others (PLD-2003 S.C. 110)

The learned counsel next contended that a change in scale by means of promotion is not automatic but dependent on a process involving selection, therefore any change in scale without such process being violative of the relevant law and rules, cannot be maintained. The learned counsel to support his contention placed reliance on the case of Abid Hussain Sherazi Vs. Secretary, M/o Industries and Production, Government of Pakistan, Islamabad (2005 SCMR 1742).

As against the learned counsel appearing on behalf of the respondents, defended the impugned judgment by contending that where a vacancy occurs in the next higher scale, the Civil Servant officiating or working on acting charge basis there against is not considered for promotion if the process of regular promotion is delayed on account of his/her ineligibility on the competent authority or any other exigency, so-called the Civil Servant who is subsequently found fit for such promotion on regular basis cannot be deprived of the salary and other consequential benefits attached to such post. Learned counsel to support his contention placed reliance on the case of Lugman Zareen and others Vs. Secretary Education, NWFP and others (2006 SCMR 1930). The learned counsel next contended that though the NWFP Civil Services (Secretariat Group) Rules, 1997 have been substituted by the NWFP Provincial Management Service Rules, 2007 but the rights of the existing incumbents of both the cadres have been protected by Rule B of the latter, therefore, the change in rules would not affect the service structure of the respondents or rights accruing thereunder. The learned counsel next contended that if the concluding paragraph of the impugned judgment is read, none of the rights of any of the officers including their seniority has been affected.

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Coun. Assn. of
Supreme Court of Pakistan
Islamabad

Lunman Zareen and others Vs Secretary Education, NWFP and others
(2006 SCMR 1930)

This Court while dealing with an identical issue held as under:-

It is then a position admitted on all sides that nothing existed in the way of the petitioners on 11.0.2000 which could have dissuaded them to regular promotion to the posts in question and that it was only the usual apathy, negligence and bureaucratic red-tapism which had deprived the petitioners of the fruits that they deserved. The petitioners could not be permitted to be punished for the faults and inaction of others. We are of the view that where a post was available against which a civil servant could be promoted where such a civil servant was qualified to be promoted to such a higher post where he was put on the said higher post on officiating or acting charge basis only because the requisite exercise of allowing the regular promotion to the said post was being delayed by the competent authority and where he was subsequently found fit for the said promotion and was so promoted on regular basis then he was entitled not only to the salary attaching to the said posts but also to all consequential benefits from the very date from which he had been put on the said post on officiating or acting charge basis and we hold accordingly:-

While dealing with the reservations of the nature expressed by the learned counsel for the appellant this Court held as under:-

A bare perusal of these judgments would thus show that this Court had always accepted the principle that a person who was asked to hold a higher post to which he was subsequently promoted on regular basis was entitled to the salary attaching to such a post for the period that he held the same that he would also be entitled to any other benefits which may be associated with the said post and further that if a vacancy existed in a higher cadre to which a civil servant was qualified to be promoted on regular basis but was not so promoted without any fault on his part and was instead put on the said post on officiating basis then on the regular promotion to the said post he would be deemed to have been so promoted to the same from the date from which

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CA 800-861/2010

which he was allowed to hold the said higher post unless justifiable reasons existed to hold otherwise.

When this being the state of things on factual and legal plain, we don't think the judgment of the learned Service Tribunal is open to any exception. The judgments rendered in the cases of "Wajahat Hussain, Assistant Director, Social Welfare, Lahore and 7 others. Vs. Province of the Punjab, through Secretary, Social Welfare and Zakat, Lahore and 11 others", "Sh. Anwar Hussain, Assistant Director, Labour Welfare, Lahore Region, Lahore Vs. Government of the Punjab through Secretary, Labour Department and others", "Nazeer Ahmed, Vs. Government of Sindh through Chief Secretary Sindh, Karachi and 2 others", "Government of Pakistan through Establishment Division, Islamabad and 7 others. Vs. Hameed Akhtar Niazi, Academy of Administrative, Walton Training, Lahore and others" and "Abid Hussain Sherazi, Vs. Secretary M/o Industries and Production, Government of Pakistan, Islamabad", (supra) cited by the learned counsel for the appellants, are not applicable to the case in hand because of their distinguishable facts and features.

9. For the reasons discussed above, these appeals being without merit are dismissed.



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Atty. Mahamud Ali
 Certified to be True Copy

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 Atty. Associate
 Supreme Court of Pakistan
 Islamabad

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the July, 25. 2012

NOTIFICATION

NO.SOE-II(ED)2(423)/2010/Vol-II:-

In pursuance of Judgment of Supreme Court of Pakistan dated 24.05.2012 in CPLAs No. 860/2010 and 861/2010 titled Govt. of Khyber Pakhtunkhwa through Secretary Establishment and others versus Muhammad Iqbal Khattak and Ahmad Khan and Judgments of Khyber Pakhtunkhwa Services Tribunal dated 13.03.2009 & 09.04.2009 in service appeals No. 612/2008, 613/2008 & 575/2009 titled Muhammad Iqbal Khattak, Ahmad Khan & Latif-ur-Rehman versus Govt. of Khyber Pakhtunkhwa through Secretary Establishment and others, the competent authority is pleased to ante-date the promotion of following PMS BS-17 officers w.e.f the dates as mentioned against each with all back benefits/consequential benefits and re-designate them as PCS(EG) BS-17:-

S.No.	Name of PMS BS-17 officer for ante-dated promotion as PCS (EG) BS-17	Date of ante-dated promotion as PCS (EG)
1.	Mr. Muhammad Iqbal Marwat (Retired on 31.07.2009) ✓	27.12.2005
2.	Mr. Riaz Muhammad Baloch (Retired on 28.02.2011) ✓	26.01.2000 ✓
3.	Mr. Muhammad Farooq	27.12.2005
4.	Mr. Zaarmat Ali (Retired on 05.03.2010) ✓	15.05.2000 ✓
5.	Mr. Muhammad Zaheer-ud-Din (Retired on 13.08.2011) ✓	29.05.2000 ✓
6.	Mr. Ahmad Khan Orakzai	01.06.2000 ✓
7.	Mr. Muhammad Iqbal Khattak	07.06.2000 ✓
8.	Mr. Muhammad Javed	10.01.2001 ✓
9.	Mr. Azam Jan Khalil	10.02.2001 ✓
10.	Mr. Ahmad Jan Afridi	08.04.2001 ✓
11.	Mr. Nazar Gul Mohmand	09.04.2001 ✓
12.	Mr. Muhammad Hanif (died on 31.03.2010) ✓	14.04.2001 ✓
13.	Mr. Tahir Muhammad	27.12.2005
14.	Mr. Muhammad Rafiq (Retired on 01.03.2012) ✓	27.12.2005
15.	Mr. Muhammad Fakhruddin	13.11.2001 ✓
16.	Mr. Farzand Ali	03.03.2005
17.	Mr. Rehmatullah Khan Wazir	13.11.2001 ✓
18.	Mr. Qaiser Khan	13.11.2001 ✓
19.	Mr. Abdul Shakoor Dawar	26.12.2001 ✓
20.	Mr. Azizullah Khan Mehsud	13.01.2002 ✓

21.	Mr. Naeem Anwar Khan	09.04.2002
22.	Mr. Loi Khan (Retired on 02.11.2010) ✓	14.04.2002
23.	Mr. Damsaz Khan	29.05.2004
24.	Mr. Habibullah Wazir	23.05.2002
25.	Mr. Zafar Ali Khan	29.05.2004
26.	Mr. Gul Wahid (Retired on 13.03.2011) ✓	31.08.2002
27.	Mr. Abdul Mateen	13.11.2002
28.	Mr. Akbar Jalal	04.03.2003
29.	Mr. Khaista Rehman	24.03.2003
30.	Mr. Shams ul Alam	27.12.2005
31.	Mr. Fazal Rehman	29.05.2004
32.	Mr. Latif ur Rehman (died on 25.10.2010) ✓	27.12.2005
33.	Mr. Rashid Mehood	29.05.2004
34.	Mr. Muhammad Jamil	29.05.2004
35.	Mr. Khurshid Anwar	29.05.2004
36.	Mr. Perhezgar Khan	29.05.2004
37.	Mr. Mushtaq Ahmad	29.05.2004
38.	Mr. Naimatullah (Retired on 24.09.2010) ✓	29.05.2004
39.	Mr. Momin Khan (Retired on 14.06.2010) ✓	26.05.2007
40.	Syed Ismail Ali Shah Gillani	27.12.2005
41.	Mr. Ahmad Khan	26.05.2007
42.	Mr Jan Muhammad	09.01.2006
43.	Mr. Saeed ur Rehman	01.02.2005
44.	Mr. Muhammad Israr (Retired on 02.01.2012)	09.01.2006
45.	Mr. Arshad Naveed	27.12.2005
46.	Mr. Hidayatullah	26.03.2005
47.	Mr. Said Ahmad Jan	09.01.2006
48.	Mr. Abdul Hamid Jan	17.05.2005
49.	Mr. Muhammad Tuhab (Retired on 12.06.2012) ✓	13.01.2006
50.	Mr. Sultanat Khan (Retired on 14.08.2010) ✓	27.04.2006
51.	Mr. Subhanullah (Retired on 12.05.2012) ✓	13.04.2006
52.	Mr. Muhammad Siddique	13.04.2006
53.	Mr Fakhru Zaman	25.05.2006
54.	Mr. Ibadat Khan	11.09.2006
55.	Mian Asfandyar	11.09.2006
56.	Mr. Rasool Khan	26.05.2007
57.	Mr Fida Muhammad (Retired on 30.10.2010) ✓	26.05.2007
58.	Mr. Muntazir Khan	23.12.2006
59.	Mr. Atta-ur-Rehman	23.12.2006
60.	Mr. Shahab Hamid Yousafzai	31.12.2006
61.	Mr. Ihsanullah	16.02.2007
62.	Mr. Ghulam Habib	16.02.2007
		16.02.2007

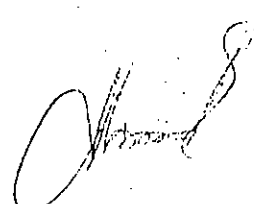
CHIEF SECRETARY
KHYBER PAKHTUNKHWA

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3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. All District Coordination Officers in Khyber Pakhtunkhwa.
9. All Political Agents in FATA.
10. Accountant General, Khyber Pakhtunkhwa.
11. Accountant General(PR) Sub Office, Peshawar.
12. All District Accounts Officers in Khyber Pakhtunkhwa.
13. All Agency Accounts officers in FATA.
14. Officers concerned.
15. P.S to Chief Secretary, Khyber Pakhtunkhwa.
16. P.S to Secretary Establishment, Khyber Pakhtunkhwa.
17. P.S to Special Secretary(Estt) Establishment Department.
18. PAs to AS(E)/AS(HKD)/DS(E) Establishment Department.
19. Office order file.

UHSAN AFRIDI


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**Office of the
District Comptroller of Accounts,
Abbottabad**

Phone: 0992-9310351-52 Fax: 0992-9310351

No.DCA-ATD/ADMN//2022-23/ 874

Dated: 24/08/2022

To,

The Director
Treasuries & Accounts,
Khyber Pakhtunkhwa, Peshawar

Subject:-

**PROMOTION TO THE POST OF TREASURY/DISTRICT ACCOUNTS
OFFICER BPS-18 AND DISTRICT COMPTROLLER OF ACCOUNTS
BPS-19**

Kindly refer to the subject cited above, a self-explanatory application of the following officers is sent herewith for further necessary action at your end please.

- | | |
|----------------------|---|
| 1. Amjad Khan | Assistant Treasury Officer O/o DCA Abbottabad |
| 2. Muhammad Shamarez | Assistant Treasury Officer on deputation basis in BISE Abbottabad |
| ✓ 3. Asad Ali Shah | Assistant Treasury Officer in Siran Right bank Canal-Project
Irrigation Department Manshra |

(Enclosed application)

District Comptroller of Accounts
Abbottabad

[Handwritten signature and date 24/8/2022]

23

To
The Chief Minister
Khyber Pakhtunkhwa
Peshawar.

Through Proper Channel

Subject: PROMOTION TO THE POST OF TREASURY/DISTRICT ACCOUNTS OFFICER
BPS-18 AND DISTRICT COMPTROLLER OF ACCOUNTS BPS-19

Respected Sir,

With humble submission, it is stated that according to the Service Rules of Treasury staff, the method of appointment against the post of Assistant Treasury Officer (B-17) is as under:

1. 20% by initial recruitment.
2. 20% by promotion on the basis of seniority cum fitness from amongst the holder of the post of Assistant Accountant.
3. 60% by promotion on the basis of seniority cum fitness from amongst the holder of the post of:

(a) Assistant Accountant who qualified SAS examination.

(b) If no qualified Assistant Accountant is available then from Sub Accountant who have qualified SAS examination.

On appointment against the post of Assistant Treasury Officer (B-17) by initial recruitment or by promotion, they are placed in combined seniority list of ATOs (B-17).

The SAS qualified promotees are professionally skilled, who passes six papers Part-I and six papers Part-II exam relating Financial Rules, Discipline and Regulations after almost completion of 20 to 25 years service, whereas on the other hand the initially recruited ATOs are those who are appointed on the bases of single MCQs paper without any Financial professional qualification.

Resultantly at the time of promotion against the post of District Accounts Officer (BPS-18), while taking the benefit of being senior in the seniority list, the initial recruited ATOs are promoted earlier and the SAS qualified Assistant Treasury Officer are deprived of their legitimate right of promotion and even after 20 to 25 years wait most of them are retired on the same post of ATO (B-17).

- I. Mr. Muhammad Zahir SAS (2007) qualified Assistant Treasury Officer was retired from service on 01.12.2021 on the same post.
- II. Mr. Muhammad Parveez SAS (2002) qualified Assistant Treasury Officer will retire from service on 01.04.2023 on the same post.
- III. Mr. Muhammad Saeed SAS (2002) qualified Assistant Treasury Officer will retire from service on 12.04.2023 on the same post.

(24)

Likely twenty more SAS qualified ATOs will stand retired on the same post without any promotion because of non availability of post due to promotion of initial recruited/Non qualified ATOs against the post of DAO (B-18) without maintaining the ratio of 1:1.3 as directed by the Khyber Pakhtunkhwa, Service Tribunal Peshawar Appeal No. 301/2009 (Copy enclosed) where in it has been advised that the system of Roster and Cycles shall be strictly adopted for the purpose of recruitment appointment to post ATO. A set of five vacancies available on, or after 03.11.2006 shall be declared one cycle and the 1st of these five vacancies will be allotted to the Direct recruit while the 2nd vacancy will be allotted to the Assistant Accountant who has not qualified SAS examination on the bases of seniority cum fitness, the remaining three vacancies of each cycle will be reserved for promotion of SAS qualified Assistant Accountants who have passed SAS examination.

Contrary to the decision of Khyber Pakhtunkhwa, Service Tribunal mentioned above, the initial direct recruitment was made in lum sum and 09 ATOs were placed in the seniority list and thus taking the benefit of being seniors five of them have already been promoted to the post of DAO (B-18) and the remaining four will also get their promotion in coming two to three months.

If the situation remains unchanged, all the post of DCAs and DAOs will be occupied by the initial recruited/non qualified ATOs in near future and no SAS qualified ATO will get promotion against the post of DAO or DCA.

The Audits & Accounts being professional and technical job, all the rules regulations of Treasury Establishment are being made on the principals of parity and equality with the Accountant General/Controller General of Accounts being sister organizations and same nature office work in the District Accounts Offices. The post of Assistant Treasury Officer BPS-17 is equivalent to the post of Assistant Accounts Officer BPS-17 for which the Controller General of Accounts has notified his Rules vide No. 800/CGA/Admn-1/17-38/2002 Vol-III dated 16.09.2014 published in the Gazette of Pakistan dated 15.07.2014 (copy enclosed), where in the conditions for initial recruitment for the post of Assistant Accounts Officer (B-17) is reproduced as: "The selected candidate should be confirmed only after having passed the APE/SAS/PIFFA examination" contrary to that no such condition exist for appointment of direct/initial appointed Assistant Treasury Officer(B-17) in the Treasury Establishment.

The Rule-57 CTR Vol-I reproduced as: "In the case of Treasury which have been recognized into District Accounts Officers temporary charge of the post of District Accounts Officer during his temporary absence, on leave or otherwise will be held by the Additional District Accounts Officer and if he is also absent, by the most senior SAS accountant now re-designated as Assistant Treasury Officer. When a temporary charge is not allowed then how can the charge of the post of District Accounts Officer can be entrusted to the non-qualified Assistant Treasury Officer (without SAS qualification).

The civil servant ACT 1973 as well as Article 38 of the constitution. 1973 also provides that the case of civil servant shall be dealt with to be just an equitable manner and shall not be dealt with any favour less favourable to the other similar civil servants. 25

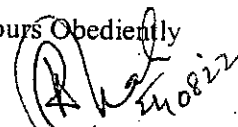
The Khyber Pakhtunkhwa, Service Tribunal has also stated in para 8 of the above mentioned appeal that fresh rules could be framed by the Govt, which are neither irrational nor discriminatory, nor prejudicial to the rights of the appellants. (Copy enclosed).

The undersigned was promoted to the post ATO (B-17) on acting charge bases vide Notification No. SO(ESTT)FD/1-55/DPC/2013 dated 31.05.2013 (copy enclosed) and was subsequently promoted on regular bases against the same post vide Notification No. SO(ESTT)FD/1-55/Promotions/ATO/2018, dated 29/11/2018 (copy enclosed). As the August Supreme Court in case C.As No. 860 to 61 of 2010, Titled Govt of KP-Vs-Iqbal Khattak and Ahmad Khan, has held that an official appointed / promoted on acting charge bases and subsequently regularly promoted against the same post, then that official upto regular promotion will gain his seniority etc with effect from the date when promoted on acting charge bases. The Establishment department on its own, on the bases of above referred Judgment has issued a Notification No. SOE(ED)-2(423)/2010/Vol-II, dated 25/07/2012, where by the benefit was antedated given effect from the year 2000 and 62 officers have been benefitted, even the retired one. As the undersigned has similar case, therefore, he is also to such antedated benefits on the strength of Judgment as 2009 SMR-I.

Therefore, in view of the above it is requested that:-

1. Antedate the seniority and other service benefits with effect from the date of acting charge promotion i.e 10.12.2012 with further benefits of B-18 and above, as decided in C.As.No.860 to 861 of 2010, Dated 24/05/2012 and Notification dated 25/07/2012 mentioned above.
2. The present Service rules may be reviewed by making them rational and equitable so that the SAS qualified ATOs may be benefitted from future prospects of promotion to BPS-18 and BPS-19 OR the proper quota for SAS qualified ATOs may be fixed in BPS-18 & BPS-19 as provided in original cadre in BPS-17. The condition of SAS/APE?PIFFA may also be inserted in the Rules for direct recruitees ATOs to make the Rule similar and at par with sister unit i.e. AG.CGA.

Yours Obediently


Asad Ali Shah
Assistant Treasury Officer

26



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
Dated Pesh: the 10-03-2018

NOTIFICATION

NO.50(EST)FD/1-16/2014/SSRC/Vol-III/Try/ In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Finance Department, in consultation with Establishment Department, and in supersession of previous notifications issued in this behalf, hereby directs that in the Khyber Pakhtunkhwa Treasuries (Recruitment and Appointment) Rules, 1981, the following further amendments shall be made, namely:-

APPENDIX

S.No.	Nomenclature of post	Minimum qualification prescribed for appointment by initial recruitment or by transfer	Minimum qualification prescribed for appointment by promotion	Age limit	Method of recruitment
1	2	3	4	5	6
1.	Director, Treasuries & Accounts.	-	-	-	By selection on merit from amongst the District Comptrollers of Accounts having three (03) years service as such: Provided that if no suitable person is available for promotion then by transfer from amongst officers of equivalent grade having three (03) years experience in finance and accounting.
2.	District Comptroller of Accounts	-	-	-	By promotion, on the basis of seniority-cum-fitness, from amongst the Deputy Directors, District Accounts Officers and Agency Accounts Officers and Treasury Officer with at least twelve (12) year service in BPS-17 and above. Note: For the purpose of promotion, a joint seniority list of the Officers mentioned above shall be maintained.
3.	Deputy Director, Treasuries & Accounts.	-	-	-	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Directors Treasuries & Accounts having five (05) years service as such: Provided that if no suitable person is available for promotion then by transfer from amongst the District Accounts Officers, Agency Accounts Officers or Treasury Officers.

Accounts

<p>District Accounts Officer / Agency Accounts Officer / Treasury officer.</p>				<p>(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Treasury Officers and Sub-Treasury Officers with at least five (05) year service as such.</p> <p><u>Note:</u> For the purpose of promotion, a joint seniority list of the Assistant Treasury Officers and Sub-Treasury Officers shall be maintained; and</p> <p>(b) fifty per cent by deputation, for a specified period, from amongst Accounts Officers of the Audit Department of Government of Pakistan.</p> <p>By promotion, on the basis of seniority-cum-fitness, from amongst the Superintendents having five (05) year service as such:</p> <p>Provided that if no suitable person is available for promotion then by Transfer from amongst the Assistants / Sub-Treasury Officers.</p>
<p>5. Assistant Director, Treasuries & Accounts.</p>				<p>(a) Sixty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Accountants, who have qualified PIPFA or SAS Examination;</p> <p>(b) twenty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Accountants;</p> <p>(c) twenty per cent by initial recruitment;</p> <p>By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants and Senior Scale Stenographers, having five (05) years service as such.</p>
<p>6. Assistant Treasury Officer / Sub-Treasury Officer.</p>	<p>At least Second Class Master's Degree in Statistics, Economics, Business Administration or Commerce, from a recognized University.</p>		<p>21 to 30 years</p>	<p><u>Note:</u> For the purpose of promotion a joint seniority list of Assistants and Senior Scale Stenographers shall be maintained.</p> <p>By promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Accountants, having five (05) years service as such.</p> <p>By promotion, on the basis of seniority-cum-fitness, from amongst the Junior Scale Stenographers with at least five (05) years service as such.</p> <p>Provided that if no suitable candidate is available for promotion then by transfer of a suitable officer.</p>
<p>7. Superintendent</p>				
<p>8. Assistant Accountant</p>				
<p>9. Senior Scale Stenographer</p>				

Accountant

10.	Assistant	At least 2 nd class Bachelor Degree from a recognized University.		20 to 32 years	(a) Seventy-five per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks with at least five (05) years service as Junior Clerk and Senior Clerk and (b) twenty-five per cent by initial recruitment.
11.	Sub-Accountant	At least 2 nd Class Bachelor's Degree in Commerce / Business Administration or ACMA or MBA from a recognized University.		21 to 35 years	By initial recruitment.
12.	Junior Scale Stenographer	i. At least 2 nd Division Intermediate or equivalent qualification from a recognized Board; ii. a speed of seventy (70) words short hand in English and forty five (45) words per minute in typing, and iii) knowledge of Computer in using M.S. Words and M.S. Excel.		18 to 30 years	By initial recruitment.
13.	Computer Operator	(i) Second Class Bachelor's Degree in Computer Science / Information Technology (BCS/ BIT four years), from a recognized University, or (ii) Second class Bachelor's Degree from a recognized University with one year diploma in Information Technology from a recognized Board of Technical Education.		21 to 32 years	By initial recruitment.

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14.	Senior Clerk				By promotion, on the basis of seniority-cum-fitness, from amongst the junior clerks with at least three (03) years service as such;
15.	Junior Clerk	i) At least 2 nd division Intermediate or its equivalent qualification from a recognized Board; and ii) a speed of thirty (30) words per minute in typing.		18 to 30 years	i) Thirty three (33) per cent by promotion, on the basis of seniority-cum-fitness, from amongst Dafstaris who possess qualification for initial recruitment having at least two (02) years service as such; and ii) sixty seven per cent by initial recruitment.
16.	Driver.	i) Secondary School Certificate from a recognized Board; and ii) Valid LTV/HTV License with three years practical experience as Driver. Note: Preference shall be given to those who have sufficient experience in driving, repair and maintenance of vehicles.		18 to 30 years	By initial recruitment.
17.	Dafstari	At least second division Secondary School Certificate from a recognized Board.		18 to 30 years	By promotion, on the basis of seniority-cum-fitness, from amongst Naib Qasids and other Class-IV employees of the Department having Secondary School Certificate from a recognized Board. Provided that if no suitable person is available for promotion then by initial recruitment.
18.	Naib Qasid.	Literate.		18 to 40 Years	By initial recruitment.
19.	Bahishud.	Literate.		18 to 40 Years	By initial recruitment.

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21.	Sweeper.	Literate.		18 to 40 years	By initial recruitment.
22.	Mali	Literate.		18 to 40 years	By initial recruitment.

SECRETARY
Government of Khyber Pakhtunkhwa
Finance Department

Dated 10-08-2018

No. NO.SQ. ESTT/FD/1-16/2014/SSRC/Vol-III/Try/.

Copy of the above is forwarded for information to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Deptt., Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department, Peshawar.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The Secretary Public Service Commission, Peshawar.
5. The Director Treasuries & Accounts, Peshawar.
6. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
7. PS to Finance Secretary.
8. The Manager, Govt. Printing Press, Peshawar for publication in official Gazette. Fifty copies of the Gazette Notification when published may be supplied.


SECTION OFFICER (ESTT)

F.No. Ref. 191 (7/162)

~~DD~~
Sept.

15/8/18
25/8

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G (31)



OFFICE OF THE
CONTROLLER GENERAL OF ACCOUNTS

Ministry of Finance, F-7, Building Sector G-5/2

ISLAMABAD

No. 800/CGA/Admn-1/17-40/2014 Date: 16.09.2014

- | | | |
|--|----|---|
| 1. The AGPR, Islamabad and Control, Lahore | 10 | The AG (MS), Islamabad |
| 2. The MAG, Rawalpindi | 11 | The CABCO, Pakistan Railways, Lahore |
| 3. The AG Punjab, Lahore | 12 | The CAO, Ministry of Foreign Affairs, Islamabad |
| 4. The AG Sindh, Karachi | 13 | The CAO PPO, G-8/4 Islamabad |
| 5. The AG Khyber Pakhtunkhwa, Peshawar | 14 | The CAO Pakistan Mint, Lahore |
| 6. The AG Balochistan, Quetta | 15 | The CAO GSP, Quetta |
| 7. The AG Gilgit-Baltistan, Gilgit | 16 | The Director of Budget & Accounts, Islamabad |
| 8. The AG A.J&K, Muzaffargarh | 17 | The Director (Accounts) PPOD, Lahore |
| 9. The DG Accounts Works, Lahore | | |

Subject: RECRUITMENT RULES FOR THE POST OF SENIOR AUDITOR (B-16), ASSISTANT ACCOUNTS OFFICER (B-17) AND ACCOUNTS OFFICER (B-18) IN RESPECT OF CGA ORGANIZATION

Kindly refer to the subject noted above and find enclosed herewith: inted copy of recruitment rules of CGA Organization notified under R.O.No.639(I)/2014 dated 16.07.2014 for your reference and record.

cc: As Above:



(MANSOOR AHMAD)
Accounts Officer (Admn)

Copy to: -

1. The Auditor General of Pakistan, Islamabad
2. PS to Controller General of Accounts
3. PA to DG (Admn)
4. PA to DG (IV&R)
5. The Accounts Officer, Admn-II/ P&D/ Regulation/ Inspection/ Litigation
6. The Web Master

ACOMM

^ A.U

QUALIFICATIONS, EXPERIENCE AND
AGE LIMITS FOR INITIAL APPOINTMENT

4. A candidate must possess the educational qualifications and experience and must be within the age limits as mentioned against the posts concerned in the Schedule to this Notification provided that:-

- (i) 'Experience' means, experience gained in a regular full time paid job after obtaining the required qualifications;
- (ii) the period spent by a candidate in obtaining degree of M.Phil or Ph.D in the relevant field shall be treated as practical experience upto a maximum period of two and four years respectively for the purpose of initial appointment, provided that:
 - (a) a candidate who has obtained the degree of M.Phil or Ph.D during service shall not be entitled to a double benefit of counting the said period as service towards experience prescribed for the post; and
 - (b) this concession shall not be available for the posts for which the prescribed qualification is M.Phil/Ph.D,
- (iii) the maximum age limit shall be relaxed in respect of the candidates specified and to the extent indicated in the Initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 1993 as amended from time to time; and
- (iv) eligibility of candidates shall be reckoned, as on the closing date fixed for submission of applications in accordance with these Recruitment Rules and the Instructions issued by the Federal Government and the Federal Public Service Commission from time to time.

APPOINTMENT BY TRANSFER

5. Appointment by transfer shall be made by selection from amongst the persons holding appointment on a regular basis under the Federal Government in the same basic pay scale in which the post to be filled exists, provided that the person concerned possesses the qualifications and experience prescribed for initial appointment to the post concerned.

PROBATION

6. Persons appointed by initial appointment or promotion or transfer shall be on probation for a period of one year. This period may be curtailed for

good and sufficient reasons to be recorded, or if considered necessary, it may be extended for a period not exceeding one year as may be specified at the time of appointment. Appointment on probation shall be subject to the provisions of Section 6 of the Civil Servants Act, 1973 read with Rule 21 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973.

7. This Notification issues with the concurrence of the Establishment Division *vide* their O.M. 10380 R-3, dated 21-11-2013 and FPSC *vide* its letter No. F. 12-09/2013-RR, dated 10th July, 2014 and supersedes earlier advice of the Commission dated 21st December, 2013.

SCHEDULE
(*See* Rule 4)

No.	Designation and BPS of the Post	Qualification and Experience	Age Limit	
			(4)	
(1)	(2)	(3)	Min.	Max.
	Accounts Officer (BS-18)	ACMA or ACYA OR (i) 2nd Class or Grade "C" Master's Degree in Commerce from a University recognized by HEC. (ii) Chartered Accountant (CA) (Modules A to F) (iii) Five years post qualification experience in the relevant field. OR (i) 2nd Class or Grade "C" Master's Degree in Business Administration (Finance/ Accounting)/ Commerce from a University recognized by HEC. (ii) Five years post qualification experience in the relevant field.	25 years	35 years
	Assistant Accounts Officer (BS-17)	i. 2nd Class or Grade "C" Master degree in Business Administration (Finance/ Accounting) / Economics / Commerce from a University recognized by HEC. ii. Two years post qualification experience in the relevant field. OR (i) 2nd Class or Grade "C" Master's Degree in Commerce from a University recognized by HEC.	22 years	30 years

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Designation and IFS of the Post (2)	Qualification and Experience (3)	Age Limit (4)	
		Min.	Max.
	(ii) ACCA (Fundamental and Professional Levels) in addition to Master's degree, (iii) one year post qualification experience in the relevant field, (iv) The selected candidates would be confirmed only after having passed APE/ SAS/ PIPFA (Public Sector).		
Senior Auditor S-16)	(i) 2nd Class or Grade "C" Bachelor's Degree in Business Administration (Finance/ Accounting)/ Commerce from a University recognized by HEC. (ii) Two years post qualification experience in the relevant field. OR (i) 2nd Class or Grade "C" Bachelor's Degree in Commerce from a University recognized by HEC. (ii) ICMA/ ACMA in addition to Bachelor's degree. (iii) One year post qualification experience in the relevant field.	20 years	22 years

Admn-I/17-38/2002/Vol-III/662.]

(Name and designation of the issuing authority)

DR. JAWAD ZAKA KHAN,
Director (Administration)
O/o Controller General of Accounts
Islamabad.

VAKALAT NAMA

NO. _____/20

IN THE COURT OF KP Service Tribunal Peshawar

Asid Ah Sheh (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

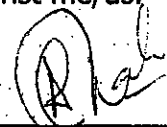
Grant of KP (Respondent)
(Defendant)

✓
I/We, _____

Do hereby appoint and constitute **Mr. M. Asif Yousafzai, ASC** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20



(CLIENT)

ACCEPTED


M. ASIF YOUSAFZAI, ASC,


SYED NOMAN ALI BUKHARI
Advocate, High Court Peshawar