



09.05.2023

Appellant alongwith his counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Adjourned. Last opportunity granted. To come up for arguments on 25.07.2023 before D.B. Parcha Peshi given to the parties.

SCANNED
K.P.S.T
Peshawar


(Muhammad Akbar Khan)
Member (E)


(Salah-ud-Din)
Member (J)


Kamranullah

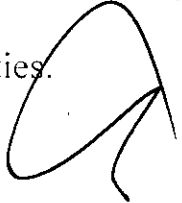
5th July, 2023

1. Learned counsel for the appellant and Mr. Muhammad Jan, District Attorney for the respondents present.

2. It was heard but the order could not be dictated and announced and in the meantime, the learned Member Judicial (Mrs. Rozina Rehman), who heard the matter with the Chairman, had been repatriated. Therefore, to come up for re-arguments on 15.11.2023 before D.B. P.P given to the parties.

SCANNED
K.P.S.T
Peshawar


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutazem Shah

14.03.2023

Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.

Former made a request for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 17.04.2023 before D.B. P.P given to the parties..



(Salah-Ud-Din)
Member (J)



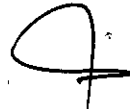
(Kalim Arshad Khan)
Chairman

17th April, 2023 1. Appellant in person present. Mr. Fazal Shah, Mohmand, Addl: AG for the respondents present.

2. Appellant seeks adjournment. Last chance is given to the appellant. To come up for arguments on ~~09.05~~ 2023 before D.B. P.P given to the parties.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

Adnan Shah, P.A

28.02.2023

Appellant present through counsel. Mr. Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Responsible and well conversant officer of the Department shall appear before the Tribunal tomorrow to assist the Court. To come up on 01.03.2023 before D.B. P.P given to the parties.



(Rozina Rehman)
Member (J)



(Kalim Arshad Khan)
Chairman

1st Mar, 2023

None for the appellant present. Mr. Umair Azam, Addl: AG for respondents present.

Counsel are on strike. To come up for order on 14.03.2023 before D.B. P.P given to the parties.



(Rozina Rehman)
Member(Judicial)




(Kalim Arshad Khan)
Chairman

SCANNED
KUST
Peshawar

3rd Nov. 2022

Appellant present in person. Mr. Naseerud Din Shah, Assistant Advocate General alongwith Haidar Ali, Assistant for the respondents present.

Appellant seeks adjournment due to non-availability of his learned counsel. Adjourned. To come up for arguments on 02.01.2023 before the D.B.

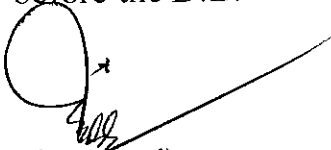

(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

02.01.2023

Appellant alongwith his counsel present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant seeks further time for preparation of arguments. Adjourned. To come up for arguments on 28.02.2023 before the D.B.


(Mian Muhammad)
Member (E)


(Salah-Ud-Din)
Member (J)

SCANNED
KP ST
Peshawar

8-3-22

Due to retirement of the Hon.ble
Chairman the case is adjourned to
29-6-22

[Signature]
Reader

29.06.2022

Appellant alongwith his counsel present. Mr. Haider Ali,
Senior Clerk alongwith Mr. Riaz Ahmad Painsakhel, Assistant
Advocate General for the respondents present.

Learned counsel for the appellant requested for
adjournment on the ground that he has not made preparation
for arguments. Adjourned. To come up for arguments on
11.08.2022 before the D.B.

[Signature]

(Rozina Rehman)
Member (J)

[Signature]

(Salah-ud-Din)
Member (J)

11.8.2022


Proper DB not available the case is
adjourned to 3-11-2022

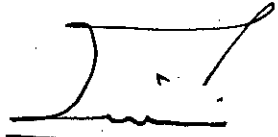
[Signature]

Reader

03.06.2021

Appellant alongwith his counsel Mr. Athar Abbas Advocate, present. Mr. Nabi Gul, Superintendent (Social Welfare Department) alongwith Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present and submitted comments on behalf of the respondents. Copy of the comments handed over to the learned counsel for the appellant. To come up for rejoinder as well as arguments before the D.B on 16.09.2021.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

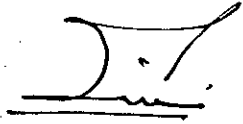

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

16.09.2021

Junior of learned counsel for the appellant present. Mr. Javed Ullah, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not feeling well. Adjourned. To come up for arguments before the D.B on 10.12.2021.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

10.12.2021

Junior to counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Former submitted rejoinder to the written reply/comments of the respondents which is placed on file. Case to come up for arguments on 08.03.2022 before the D.B.

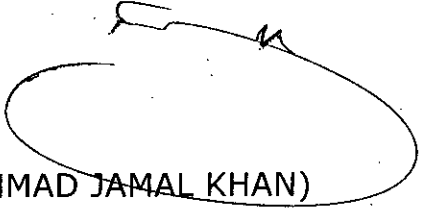

(Salah-ud-Din)
Member(J)


Chairman

11.11.2020

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is present.

Written reply on behalf of respondents not submitted. Learned Additional Advocate General seeks time to contact the respondents and procure written reply/comments. Adjourned to 31.12.2020 on which date the requisite reply/comments shall positively be furnished.

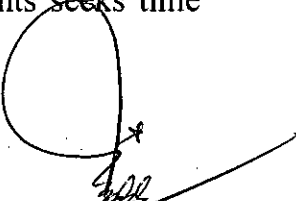

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

31.12.2020

Nemo for the appellant present. Mr. Noor Zaman Khattak, District Attorney alongwith Naseeb Khan, SO for respondents present.

Written reply/comments on behalf of the respondents not submitted. Representative of the respondents seeks time to submit the same on the next date.

Adjourned to 23.02.2021 before S.B.


(Mian Muhammad)
Member(E)

23.02.2021

Junior to senior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Written reply on behalf of respondents not submitted despite numerous opportunities, therefore, the appeal is posted before D.B for 03.06.2021 for arguments.


(Muhammad Jamal Khan)
Member

15.07.2020

Counsel for the appellant present. Arguments heard and record perused.

Contends that the appellant was appointed on 03.07.2013 against the vacant post of Field Officer in Directorate of Social Welfare, Special Education & Women Empowerment Department. He successfully completed five (05) years tenure and became eligible for promotion to the next available higher post under the prevailing rules. He submitted an application to the Director but to no avail. He also approached the August Peshawar High Court and vide order dated 09.10.2019, the petition was forwarded to the respondents with direction to treat the same as departmental appeal and dispose of by issuing a speaking order within 30 working days.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Notice be issued to the respondents. To come up for written reply/comments on 17.09.2020 before S.B.

Appellant Deposited
Security & Process Fee

15/7/20

Member (J)

17.09.2020

Counsel for the appellant and Addl. AG alongwith Sajid Superintendent for the respondents present.

Learned AAG seeks time to furnish requisite comments/reply. Adjourned to 11.11.2020 on which date the requisite reply/comments shall positively be furnished.




Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1288 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/03/2020	<p>The appeal of Mr. Hamid presented today by Mr. Athar Abbas Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR 03/03/2020</p>
2-	06/03/2020 17.04.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>17/04/2020</u></p> <p style="text-align: right;"> MEMBER</p> <p>Due to public holiday on account of COVID-19, the case is adjourned to 15.07.2020 for the same. To come up for the same as before S.B.</p> <p style="text-align: right;"> Reader</p>

SCANNED
REGISTER
POSTMAN

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR.

In Ref.
S.A _____/2020

1288/2020

HAMID

VERSUS

GOVT: OF KHYBER PAKHTUNKHWA

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4	Appointment order	"A"	9
5	Charge Assumption	"B"	10
6	Relevant Rules 2006	"C"	11-12
7	Amendment in Rules 2011	"D"	13-14
8	Amendment in Rules 2019	"E"	15-17
9	Application for promotion dated: 18/05/2018	"F"	18
10	Application for promotion dated: 11/07/2018	"G"	19
11	Application for promotion dated: 17/10/2018	"H"	20
12	Working Paper	"I"	21-34
13	Application for promotion dated: 14/01/2019	"J"	35
14	Covering Letter	"K"	36-38
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21	Wakalatnama		

Dated:


APPELLANT

Through


Athar Abbas

Advocates Peshawar High Court
Peshawar.

①

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

In Ref. S.A _____/2020

1288/2020

HAMID S/O KHAIR GUL R/O MR&PHC PAJAGAI ROAD, BAH SIRABAD, PESHAWAR.

Khyber Pakhtunkhwa Service Tribunal

Case No. 1432

Dated: 03/03/2020

APPELLANT

VERSUS

1. GOVT: OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY, CIVIL SECRETARIAT PESHAWAR.
2. SECRETARY SOCIAL WELFARE, SPECIAL EDUCATION AND WOMEN EMPOWERMENT, KHYBER PAKHTUNKHWA, CIVIL SECRETARIAT PESHAWAR.
3. DIRECTOR SOCIAL WELFARE, SPECIAL EDUCATION AND WOMEN EMPOWERMENT KHYBER PAKHTUNKHWA.
4. SECRETARY ESTABLISHMENT KHYBER PAKHTUNKHWA, CIVIL SECRETARIAT PESHAWAR.
5. SECRETARY FINANCE KHYBER PAKHTUNKHWA, CIVIL SECRETARIAT PESHAWAR.

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974 FOR ISSUING AN APPROPRIATE ORDER TO THE RESPONDENTS TO CONSIDER THE APPELLANT FOR PROMOTION TO THE NEXT HIGHER POST AMONGST ANY OF THE THREE I.E. "SOCIAL WELFARE OFFICER, MANAGER SUPERINTENDENT WELFARE HOME" (BPS-17) W.E.F 03/07/2018 UPON SUCCESSFUL & SATISFACTORY COMPLETION OF HIS FIVE YEAR SERVICE AS FIELD OFFICER (BPS-16) IN DIRECTORATE OF SOCIAL WELFARE, PESHAWAR ALONGWITH ALL BACK BENEFITS OF THE HIGHER POST (BPS-17) AS CITED ABOVE.

Filed to Day

03/03/2020 Registrar

DECLARING THE ACT OF THE RESPONDENTS FOR NOT ENTERTAINING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY TIME IS NUL AND VOID AND ANY ORDER PASSED BY THE RESPONDENTS SUBSEQUENTLY IN THE DEPARTMENTAL APPEAL OR ANY ADVERSE ACTION TAKEN BY THE RESPONDENTS AGAINST THE APPELLANT DURING PENDING THIS APPEAL MAY BE SET-ASIDE.

RESPECTFULLY SHEWETH:

The appellant most humbly submits as under: -

1. That the appellant was appointed on 03/07/2013 against the vacant post of field Officer (BPS-16) in Directorate of Social Welfare, Special Education & Women Empowerment Department, Khyber Pakhtunkhwa under recommendation of Khyber Pakhtunkhwa Public Service Commission.

(Copy of appointment order is annexed as "A")

2. That after appointment as Field Officer (BPS-16), the appellant submitted his arrival/charge assumption report on 03/07/2013 and assumed the charge in Directorate of Social Welfare, Special Education & Women Empowerment.

(Copy of charge assumption report is annexed as "B")

3. That after assuming the charge as Field Officer (BPS-16), the appellant performed his duties efficiently & honestly and successfully completed 05 years tenure and became eligible for promotion to the next available higher post under the prevailing rules/laws.

(Copies of rules/laws are annexed as "C", "D" & "E")

4. That as soon as the appellant became eligible for promotion under the law, he submitted an application to the director social welfare, Khyber

Pakhtunkhwa, Peshawar on 18/05/2018 diary No.34045, 11/07/2018 diary No.34814 & 17/10/2018 diary No.36710 but no positive response was given by the respondent No.3.

(Copies of applications are annexed as "F", "G" & "H" respectively)

5. That on 16/11/2018 with the approval of respondent No.3, assistant director (Estb:) Directorate of Social Welfare, Peshawar issued a working paper for promotion vide letter No.E-17/16/DSW/Vol-10/2538-39 dated: 16/11/2018 alongwith supporting annexure. Vide this working paper the position of the present appellant was apparent and fit for promotion to the next higher post under the rules.

(Copies of working paper are annexed as "I")

6. That despite issuing the working paper, the respondents never conduct a meeting of Departmental promotion committee (DPC) and the promotion case of the appellant has been hanged till date.
7. That as meeting of Departmental Promotion Committee (DPC) has not been conducted by the respondents after completed the whole process and issuance of the working paper, the appellant alongwith other collegues once again moved an application in the name of respondent No.2 (Secretary Social Welfare) on 14/01/2019 Diary NO.38913. The same was forwarded to the Secretary Social welfare (Respondent No.2) under covering letter No.E-17/19/DSW/Vol:IV/4864-65 dated: 23/01/2019.

(Copy of application and covering letter are annexed as "J" & "K" respectively)

8. That vide order dated: 19/03/2019 the respondent No.3 issued the tentative seniority list of the appellant in which the appellant lies as serial No.2 and under the rules, the appellant also eligible for promotion but even than he has been deprived from his right of promotion. Although number of vacant

posts are available upon which the appellant has to be promoted but the respondents reluctant to promote the appellant without any legal flaw.

(Copy of seniority list is annexed as "L")

9. That apart from all the above narrated facts, the case of the appellant was not processed positively and the appellant was deprived from his due right of promotion. The appellant again moved an application to Deputy Secretary Social Welfare and Director Social Welfare in the month of November and December 2019 respectively but no positive response was given by the respondents.

(Copies of applications are annexed as "M" & "N" respectively)

10. That after such a long process, the respondents never granted the due right of the promotion to the appellant. In such a scenario, the appellant had no other way but to file writ petition No.3743-P/2019 before Peshawar High Court Peshawar which was decided on 09/10/2019 by the Hon'ble court with the direction that the said writ petition may be considered as departmental appeal.

(Copy of W.P and judgment are attached as Annexure "O" & "P")

11. That the appellant communicated the order of the August High Court Peshawar to the respondents vide his application dated: 15/10/2019 but till date no response has been received from the respondents.

(Copy of application is annexed as "Q")

12. That such negligence and reluctance of the respondents from not giving promotion to the appellant w.e.f 03/07/2018 with all back benefits is unlawful, against the prevailing rules, as well as against the fundamental rights of the appellant.

13. That feeling aggrieved from such act of the respondents and not resolving the departmental appeal within statutory time, the appellant has no other option but to file the instant service appeal on following grounds inter-alia: -

GROUND:

- A. That the appellant has not been treated in accordance to law and the respondents have acted in violation of Articles 4 and 25 of the constitution of Islamic republic of Pakistan, 1973 as well as the service law and rules.
- B. That the act of the respondent for not considering the appellant for promotion and not processing the case of the appellant is violation of the due right of the appellant.
- C. That negligence at the part of the respondents could damage the career of the appellant and the appellant would suffer irreparable loss.
- D. That the act of the respondents for not entertaining the departmental appeal in time is also violation of the judgment of August Peshawar High Court dated; 09/10/2019 and amount to the offence of contempt of court.
- E. That the respondents have not cogent reason to delay the promotion case of the appellant which is clear violation of the appointment, promotion and transfer rules.
- F. That the act of the respondents is the violation of the terms and condition of service of the appellant.
- G. That, number of posts of Social Welfare Officer, Manage and Superintendent Welfare Home was also vacant before 03/07/2018 and the appellant became eligible for promotion on 03/07/2018.
- H. That the prevailing rules and law in respect of the promotion of the appellant are also supporting the version of the appellant, therefore, not considering the appellant for promotion is also the violation of such rules.

6

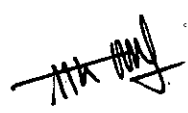
I. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

IT IS, THEREFORE, MOST HUMBL Y PRAYED THAT THE INSTANT APPEAL AS PRAYED BY THE APPELLANT MAY BE DECIDED IN FAVOUR OF THE APPELLANT.

Dated:


APPELLANT

Through



Athar Abbas
Advocates Peshawar High Court
Peshawar.

NOTE:

No such like appeal for same appellant, upon the same subject matter has been filed by me, prior to the instant one, before this Hon'ble Tribunal.



Advocate

7

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR.

In Ref.
S.A _____/2020

HAMID

VERSUS

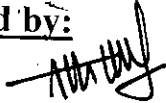
GOVT: OF KHYBER PAKHTUNKHWA

AFFIDAVIT

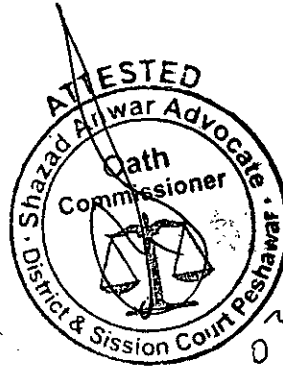
I, Hamid S/O Khair Gul R/O MR&PHC Pajagai Road, Bahsirabad, Peshawar, do hereby solemnly affirm and declare that all the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.


DEPONENT

Identified by:



Athar Abbas
Advocate High Court Peshawar.



BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

In Ref. S.A _____/2020

HAMID

VERSUS

GOVT: OF KHYBER PAKHTUNKHWA

MEMO OF ADDRESSES

APPELLANT:

HAMID S/O KHAIR GUL R/O MR&PHC PAJAGAI ROAD, BAH SIRABAD, PESHAWAR.

RESPONDENTS:

1. GOVT: OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY, CIVIL SECRETARIAT PESHAWAR.
2. SECRETARY SOCIAL WELFARE, SPECIAL EDUCATION AND WOMEN EMPOWERMENT, KHYBER PAKHTUNKHWA, CIVIL SECRETARIAT PESHAWAR.
3. DIRECTOR SOCIAL WELFARE, SPECIAL EDUCATION AND WOMEN EMPOWERMENT KHYBER PAKHTUNKHWA.
4. SECRETARY ESTABLISHMENT KHYBER PAKHTUNKHWA, CIVIL SECRETARIAT PESHAWAR.
5. SECRETARY FINANCE KHYBER PAKHTUNKHWA, CIVIL SECRETARIAT PESHAWAR.

Dated:

APPELLANT

Through

Athar Abbas
Advocates Peshawar High Court
Peshawar.



⑨

"A"

Appendix
Order

**DIRECTORATE OF SOCIAL WELFARE,
SPECIAL EDUCATION AND WOMEN
EMPOWERMENT JAMRUD ROAD
PESHAWAR.**

Dated Peshawar the 3 / 7 / 2013

No. E-17/54/DSW/Vol-18/ 657-62 In pursuance of the recommendations of the Khyber Pakhtunkhwa Public Service Commission and acceptance of the terms and conditions offered to him vide this Directorate's letter No. E-17/54/Vol-18/DSW/610-13 dated 01-07-2013, Mr. Hamid S/O Khair Gul is hereby appointed as Field Officer (BPS-16) and posted against the vacant post in Directorate of Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa, Peshawar. → P-40

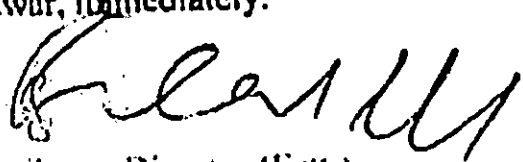
He shall be on probation, initially, for a period of one year w.e.f the date of his arrival, extendible for a further period of one year.

Sd/-
Director
Social Welfare, Spl: Edu: & WE
Khyber Pakhtunkhwa

Copy to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Assistant Director (Budget & Accounts) Directorate of Social Welfare, Spl: Edu: & WE, Khyber Pakhtunkhwa, Peshawar.
3. The Assistant Director (Admn) Directorate of Social Welfare, Spl: Edu: & WE, Khyber Pakhtunkhwa, Peshawar.
4. The Section Officer-II, Social Welfare, Spl: Edu: & Women Empowerment Department, Khyber Pakhtunkhwa.
5. P.A to Director, Social Welfare, Spl: Edu: & Women Empowerment, Khyber Pakhtunkhwa.
6. The officer concerned, with the remarks to report for duty in the Directorate of Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa, Peshawar, immediately.

✓ 7. Personal File


Assistant Director (Listt.)
Social Welfare, Spl: Edu: & WE
Khyber Pakhtunkhwa


ATTESTED

(10)

"E"

CHARGE ASSUMPTION REPORT.

Consequent upon my appointment as Field Officer vide order No. E-17/54/DSW/Vol-18/657-62 dated 03-07-2013, I, Hamid hereby assume the charge of the post of Field Officer in the Directorate of Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa, Peshawar today on Wednesday the 3rd July, 2013 (A.N.)

→ P-41

/

(Hamid)
Field Officer
Directorate of Social Welfare, Spl: Edu: & WE
Khyber Pakhtunkhwa

No. 702-7 Dated Peshawar the 3/7/2013

Copy to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Section Officer-II, Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa.
3. The Assistant Director (B&A) Directorate of Social Welfare, Spl: Edu: & WE, Khyber Pakhtunkhwa.
4. The Assistant Director (Admn) Directorate of Social Welfare, Spl: Edu: & WE, Khyber Pakhtunkhwa.
5. P.A to Director, Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa, Peshawar.
6. Personal File.

Hamid

Field Officer
Directorate of Social Welfare, Spl: Edu: & WE
Khyber Pakhtunkhwa


ATTESTED

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

"C"

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, FRIDAY, 14th DECEMBER, 2018.

GOVERNMENT OF NWFP-NORTH WEST FRONTIER PROVINCE
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
AND WOMEN EMPOWERMENT DEPARTMENT

NOTIFICATION

Dated Peshawar the September 21, 2006.

No. SOII (SW)II-12/99. In pursuance of the provisions contained in sub-rule (2) of Rule (3) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, and in supersession of Services & General Administration, Tourism and Sports Department, Government of NWFP Notification No. SOR-II (S&GAD)2-6/78, dated 01-02-1981, the Zakat, Ushr, Social Welfare & Women Development Department, in consultation with the Establishment Department and Finance Department NWFP, hereby lays down the method of recruitment, qualification and other conditions specified in Column No. 2 to 7 of Appendix to this Notification which will be applicable to the posts in the Directorate of Social Welfare and Women Development NWFP:

Secretary to Govt: of NWFP
Zakat, Ushr, Social Welfare
& Women Dev: Department

[Signature]
ATTESTED

566

Name of the post	Grade	Qualification	Other conditions

APPOINTMENT/QUALIFICATION AND OTHER CONDITIONS APPLICABLE TO POSTS IN SOCIAL WELFARE DEPARTMENT IN NWFP

S.No	Nomenclature of post	Minimum qualification for appointment by		Age for initial recruitment		Method of recruitment
		Initial recruitment	Promotion	Minimum	Maximum	
1	Director BPS-18					By promotion on the basis of seniority-cum-fitness from amongst the holders of posts of Assistant Directors and Superintendent Institutions with at least 5 years service as such and if no suitable Assistant Director / Superintendent of Institution is available for promotion then by transfer from any other Government Department.
2	Assistant Director / Manager BPS-17					By transfer from amongst holders of the post of Social Welfare Officer B-17.
3	Superintendent Welfare Home BPS-17					By promotion on the basis of seniority-cum-fitness amongst the holder of post of Supervisor / Field Officer / Social Case Worker B-16 / Office Superintendent BS-16 with at least 5 years service as such.
4	Planning Officer B-17	Master Degree in Economic or Statistics / MBA or MPA from a recognized University		21 years	32 years	By initial recruitment
5	Social Welfare Officer B-17	Master Degree in Social Work / Sociology or Anthropology from a recognized University		21 years	32 years	i) 80% by initial recruitment. ii) 20% by promotion from amongst holder of the post of Field officer / Supervisor B-16 and Social Case Worker B-16 with at least 5 years service as such.
6	Field Officer / Supervisor B-16	Master Degree in Social Work / Sociology or Anthropology from a recognized University		21 years	32 years	iii) By initial recruitment
7	Office Superintendent B-16					By promotion on the basis of seniority-cum-fitness amongst the holder of post of Assistants and Senior Scale Stenographer in the Directorate with at least 5 years service as such. Note:- A common seniority list of Assistants and Senior Scale Stenographers for the purpose of promotion to the post of Superintendent shall be maintain on the basis of their regular continuous appointment to the respective posts.
8	Social Case Worker B-16	Master Degree in Social Work, Sociology or Anthropology from a recognized University		21 years	32 years	By initial recruitment

12

ATTES

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, FRIDAY, 14th DECEMBER, 2018.

GOVERNMENT OF NWFP-NORTH WEST FRONTIER PROVINCE
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
AND WOMEN EMPOWERMENT DEPARTMENT

NOTIFICATION

Dated Peshawar the 29th November, 2011

No. SO-II(SWD)/II-12/2011/2823-34.

In pursuance of the provisions contained in sub-rule (2) of Rule (3) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the Zakat, Ushr, Social Welfare, Special Education and Women Empowerment Department, in consultation with the Establishment Department and the Finance Department, hereby directs that in this Department's Notification No. SO-II(SW)/II-12/99/28049-132, dated 21-09-2006, the following amendment shall be made, namely:

AMENDMENT

In the appendix,-

(i) for the existing entries against serial No. 1, the following shall be substituted in the respective columns namely: in Part-II, against serial No. 1, for the existing entries in column 2 to 5, the following shall be substituted:

1	2	3	4	5
1	Director, Social Welfare, Special Education and Women Empowerment (BPS-19)			By promotion on the basis of seniority-cum-fitness from amongst the holders of the posts of Deputy Directors having seven years service as such or twelve years service in BPS-17 and above. If no eligible officer is available for promotion, then by transfer of an officer of Provincial Government.

(ii) after serial No. 1, the following new entries shall be inserted in the respective columns, namely:

1	2	3	4	5
1A	Deputy Director (BPS-18)			By promotion on the basis of seniority-cum-fitness from amongst the holder of the posts of Assistant Directors/Superintendents Welfare Home/Manager, Artificial Limbs Workshop/Social Welfare Officers having at least five years service as such.

(iii) for the existing entries against serial No. 2, the following shall be substituted in the respective columns, namely:

1	2	3	4	5
2	Assistant Director (BPS-17)	Master's degree in Social Sciences from a recognized University.	21 to 32 years	a) Twenty percent by promotion from amongst Office Superintendents (BPS-16) with at least five years service as such. b) Eighty percent by initial recruitment.

ATTESTED

(iv) for the existing entries against serial No. 3, the following shall be substituted in the respective columns namely:

1	2	3	4	5
"3"	Superintendent, Welfare Home /Manager (BPS-17)	Master's degree in Social Work/Sociology or Anthropology from a recognized University.	21 to 32 years	a) Fifty percent by initial recruitment. b) Fifty percent by promotion from amongst the holder of the post of Field Officer/Supervisor and Social Case Worker (BPS-16) with at least 5 years service as such

(v) after serial No. 29, the following new entries shall be inserted in the respective columns, namely:

1	2	3	4	5
"29"	Daftari (BPS-2)			By promotion from amongst the holders of the post of Naib Qasid/Chowkidars (BPS-1) who are Middle passed.

Secretary to Govt: of NWFP
Zakat, Ushr, Social Welfare & WD Deptt:

ATTESTED

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar



GOVERNMENT OF THE KHYBER PAKHTUNKHWA
SOCIAL WELFARE, SPECIAL EDUCATION AND WOMEN EMPOWERMENT DEPARTMENT

NOTIFICATION

Peshawar, dated the September, 25th 2019

No: SOII/SWD/II-12/Service Rules/2019-20: 320-52 In pursuance to the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all Notifications issued in this behalf, the Social Welfare, Special Education and Women Empowerment Department Khyber Pakhtunkhwa, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in column 3 to 5 of the Appendix to this Notification, which shall be applicable to all the posts in the strength of Directorate of Social Welfare, Special Education and Women Empowerment Khyber Pakhtunkhwa (Social Welfare Side) specified in column 2 of the said Appendix:

APPENDIX

S.No:	Nomenclature	Minimum qualification for initial recruitment	Age Limit	Method of Recruitment
1	2	3	4	5
1	Director (BPS-19)	---	---	By transfer of PCS/PMS/PAS Officer of the Provincial Government.
2	Deputy Director (BPS-18)	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the Social Welfare Officers, Managers, Rehabilitation Officers and Assistant Directors with at least five years service as such. Note: A joint seniority list of Social Welfare Officers, Managers, Rehabilitation Officers and Assistant Directors shall be maintained for the purpose of promotion.
3	Assistant Director (BPS-17)	At least Second Class Master's Degree or equivalent qualification from a recognized University.	21-35 years	(a) Thirty per cent (30 %) by promotion, on the basis of seniority-cum-fitness, from amongst the Superintendent with at least three years service as such and have qualification of graduation from a recognized University; and (b) Seventy per cent (70 %) by Initial recruitment.

ATTESTED

'E'

New Rules-2019

~~Annex B~~

15

4	Manager (BPS-17)	At least Second Class Master's Degree in Social Work, Sociology, Anthropology or equivalent qualification from a recognized University.	21-35 years	(a) Ten per cent (10 %) by promotion, on basis of seniority-cum-fitness, from amongst the Administrative Officers with at least three years services as such; and (b) ninety per cent (90 %) by initial recruitment.
5	Rehabilitation Officer (BPS-17)	At least Second Class Master's Degree in Social Work, Sociology, Psychology, Anthropology or equivalent qualification from a recognized University.	21-35 years	By initial recruitment.
6	District Officer-Social Welfare (BPS-17)	---	---	By transfer from amongst the officers in BPS-17 of Directorate of Social Welfare, Khyber Pakhtunkhwa, on social welfare side.
7	Social Welfare Officer (BPS-17)	At least Second Class Master's Degree in Social Work, Sociology, Anthropology or equivalent qualification from a recognized University.	21-35 years	(a) Ten per cent (10 %) by promotion, on the basis of seniority-cum-fitness, from amongst the Field Officers with at least five years service as such; and (b) ninety (90) % by initial recruitment.
8	Medical Officer (BPS-17)	---	---	By transfer from Health Department on deputation basis.
9	Psychologist (BPS-17)	---	---	By transfer from Health Department on deputation basis.
10	Superintendent (BPS-17)	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants and Senior Scale Stenographers with at least five years service as such. Note:-A joint seniority list of Assistants and Senior Scale Stenographers shall be maintained for the purpose of promotion.
11	Administrative Officer (BPS-17)	At least Second Class Master's Degree or equivalent qualification from a recognized University.	21-35 years	By initial recruitment.
12	Field Officer (BPS-16)	At least Second Class Master's Degree in Social Work, Sociology or Anthropology or equivalent qualification from a recognized University.	21-35 years	By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Vocational Teachers with at least three years service as such.

ATTESTED

17

40	Naib Qasid (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.
41	Sweeper (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.
42	Chowkidar (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.
43	Mali (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.
44	Security Guard (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.
45	Cook (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.
46	Attendant (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.

—Sd—

Secretary to Government of Khyber Pakhtunkhwa
Social Welfare, Special Education &
Women Empowerment Department

Endst: of Even No & Date:

Copy forwarded for information and further necessary action to the:

1. Secretary to Government of Khyber Pakhtunkhwa, Establishment & Administration, Finance and Law Departments.
2. Secretary Khyber Pakhtunkhwa Public Service Commission Peshawar.
3. Accountant General Khyber Pakhtunkhwa Peshawar.
4. Director Social Welfare, Special Education & Women Empowerment Khyber Pakhtunkhwa.
5. Manager Government Printing Press Khyber Pakhtunkhwa, Peshawar for publication in the office gazette.
6. All District Account Officer Khyber Pakhtunkhwa.
7. PS to Governor Khyber Pakhtunkhwa Peshawar.
8. PS to Chief Minister Khyber Pakhtunkhwa, Peshawar.
9. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
10. PS to Secretary Social Welfare, Special Education & Women Empowerment Department Khyber Pakhtunkhwa Peshawar.


ATTESTED


Section Officer-II

To

The Director,
Social Welfare, Special Education &
Women Empowerment Khyber Pakhtunkhwa.

Subject: APPLICATION FOR PROMOTION FROM BPS-16 TO BPS-17


R/Sir,

With due respect it is stated that I was recommended by the Khyber Pakhtunkhwa Public Service Commission against the post of Field Officer (BPS-16) in the Directorate of Social Welfare, Special Education & Women Empowerment on 03.07.2013.

As per service rules of the Department the incumbent of the post of Field Officer (BPS-16) will have to promote to the post of Social Welfare Officer / Manager / Superintendent Welfare Home (BPS-17) under 50% quota reserved. The required length of service for promotion to BPS-17 of the undersigned will be completed on 02.07.2018.

It is, therefore, requested that I may kindly be granted promotion in BPS-17 against the quota reserved and oblige.

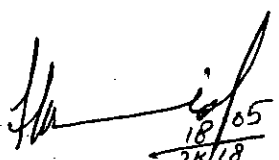
Yours Obediently


(Hamid) 18/05
24/18
Field Officer (BPS-16)
Directorate of Social Welfare
Spl: Edu: & Women Empowerment
Khyber Pakhtunkhwa.

Copy forwarded to:

1. PS to Secretary, Social Welfare, Spl: Edu: & Women Empowerment.

Directorate of
Social Welfare, K.P.K.
No: 34045
Date: 18/5/18


Field Officer (BPS-16)
Directorate of Social Welfare
Spl: Edu: & Women Empowerment
Khyber Pakhtunkhwa.

O/C


ATTESTED

(19)

"G"

To

The Director

Social Welfare, Spl education

& Women Empowerment Peshawar

SUBJECT: APPLICATION FOR PROMOTION

Reference to the Astt Director (Estt) Order # E-17/54/DSW/Vol-18672-89 on dated 03-7-2013 we the following individual has been appointed as Social Case Worker (PBS-16) & Field Officer (PBS-16) with the pursuance of the recommendation of Khyber Pakhtunkhwa Public service commission.

1. Mr. Sabir Khan S/O Haider Khan (Social Case Worker)
2. Mr. Alamgir S/O Amin Khan (Social Case Worker)
3. Mr. Sareer Khan S/O Khan Rehman (Social Case Worker)
4. Mr. Hamid Khan Shinwari (Field Officer)

According to the appointment, promotion and transfer sub rule (2) of rule 03 Khyber Pakhtunkhwa civil servants notified with letter# SO-II(SWD)/II-12/2011/2823-34 on dated 29th November 2011, the respective applicants are entitled to file their application for promotion by completing the length of 05 year service from 3-7-2013 to 2-7-2018. This letter is tabled with a request for promotion along with appointment order & promotion rules notification enclosed for ready reference.

With best regards

1. Mr. Sabir Khan (Social Caser Worker) *Sabir Khan* 10/1/2018
2. Mr. Sareer Khan (Social Caser Worker) *Sareer Khan*
3. Mr. Alamgir (Social Caser Worker) *Alamgir* 10/7/2018
4. Mr. Hamid Khan Shinwari (Frelid officer) *Hamid Khan* 10/10/18

[Signature]
ATTESTED

Copy

1. Assistant Director (Estab) Directorate of Social Welfare Peshawar
2. PS to Secretary SW, SE & WE Dept KPK

Directorate of Social Welfare K.P.K.
No: 34814
Date: 11/7/18

Copy

To

(20)

"H"
Appeal-2

The Director,
Social Welfare, Special Education &
Women Empowerment Khyber Pakhtunkhwa.

Subject:

APPLICATION FOR PROMOTION FROM BPS-16 TO BPS-17

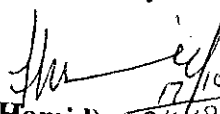
R/Sir,

Reference to my application dated 18.05.2018 on the subject noted above and to state with respect that I was recommended by the Khyber Pakhtunkhwa Public Service Commission against the post of Field Officer (BPS-16) and assumed the charge in the Directorate of Social Welfare, Special Education & Women Empowerment on 03.07.2013.

As per available service rules of the Department the incumbent of the post of Field Officer (BPS-16) will have to promote to the post of Social Welfare Officer / Manager / Superintendent Welfare Home (BPS-17) under 50% quota reserved. The required length of service for promotion to BPS-17 of the undersigned has been completed on 02.07.2018.

It is, therefore, requested again that the undersigned may kindly be granted promotion in BPS-17 against the quota reserved and oblige.

Yours obediently


(Hamid) 17/10/18

Field Officer (BPS-16)
Directorate of Social Welfare
Spl: Edu & Women Empowerment
Khyber Pakhtunkhwa

Copy forwarded to:

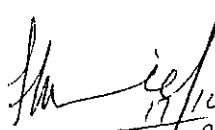
1. PS to Secretary, Social Welfare, Spl: Edu & Women Empowerment.


ATTESTED

Directorate of
Social Welfare K.P.K.

No: 36710

Date: 17/10/2018


(Hamid) 17/10/18

Field Officer (BPS-16)
Directorate of Social Welfare
Spl: Edu & Women Empowerment
Khyber Pakhtunkhwa

O/K

(21)

16/11
Working paper



091-9224253

Government of Khyber Pakhtunkhwa
Directorate of Social Welfare, Special Education and
Women Empowerment Jamrud Road Peshawar.

No. E-17/16/DSW/Vol-10/ 2538-39
Dated Peshawar the 16/11/2018

To

The Section Officer-II,
Social Welfare, SE & WE,
Khyber Pakhtunkhwa.

SUBJECT: WORKING PAPER FOR PROMOTION.

I am directed to refer to the subject and to enclose here with the Working Paper along with all relevant Annexures for Promotion of Social Case Worker/ Field Officer BPS-16 to the post of Social Welfare Officer/Manager/Superintendent BPS-17, for further necessary action please.


Encl: As above.


Assistant Director
(Establishment)

Copy forwarded to

1. PA to DSW.

0/1


Assistant Director
(Establishment)


ATTESTED

0/1

WORKING PAPER

SUBJECT: PROMOTION OF SOCIAL CASE WORKER / FIELD OFFICER / SUPERVISOR (BPS-16) TO THE POST OF SOCIAL WELFARE OFFICER, SUPERINTENDENT / MANAGER BPS-17.

According to the rules the incumbent(s) of the post of Social Case Worker/ Field Officer/Supervisor BPS-16 with five (5) year of service as such are to be promoted to any of the following three posts:

- Social Welfare Officer BPS-17
- Superintendent BPS-17 Darulkafala/Darulaman/Welfare Home &
- Manager BPS-17 MR & PHC.

1-Social Welfare Officer BPS-17

There are 44 sanctioned posts of Social Welfare Officers (BPS-17) in Social Welfare, Special Education and Women Empowerment Khyber Pakhtunkhwa (**Annexure-A**). In terms of S.No. 3, Column-7 of the Notification No. SOII (SW) II-12/99 dated 21.09.2006 (**Annexure-B**), the following method has been prescribed for recruitment of Social Welfare Officers (BPS-17):

- (a) "Twenty percent by promotion, on the basis of seniority-cum-fitness from amongst the Field Officers / Supervisors and Social-Case Workers with five year service as such; and
- (b) Eighty percent by initial recruitment".


ATTESTED

Table-A

Sanctioned strength of SWOs	Total filled at present	Vacant post	20% promotion quota	Filled through promotion	remaining promotion quota	Remarks
44	41	4	8.8 say 9	5	4	

2- Superintendent BPS-17 Darulkafala/Darulaman/Welfare Home/ Manager BPS-17 MR & PHC/

There are 17 sanctioned posts of Superintendent (BPS-17) Welfare Home/Darulkafala/Darulaman and 10 sanctioned posts of Manager/Principal Mentally Retarded & Physically Handicapped Children in Social Welfare, Special Education and Women Empowerment Khyber Pakhtunkhwa (**Annexure-C**). Thus, on the whole, total number of the sanctioned post of above mentioned Superintendent and Manager/Principal is 27 for which the prescribed method of recruitment in terms of S. No. (iv) Column-5 of the Notification No. **SO-II (SWD)/II-12/2011/2823-34** dated **29.11.2011 (Annexure-D)**, is as following:

a) Fifty percent by initial recruitment.

b) Fifty percent by promotion from amongst the holder of the post of Field Officer/Supervisor and Social Case Worker (BPS-16) with at least 5 year service as such.

Table-B

S.No	Nomenclature & BPS- of the Post	Sanctioned Strength	Total Filled	Total Vacant	50% Promotion Quota Share	No.of Posts filled Through Promotion	No.of Posts to be filled Through Promotion
1	Superintendent BPS-17	17	5	12	8.5 say 9	02	07
2	Manager/Principal BPS-17	10	2	8	05	Nil	05
	Total	27	7	20	14	02	12

Thus as per Rules a total of 14 out of 27 posts of Superintendent/ Manager BPS-17 are to be filled through promotion from amongst the holder of the post of Social Case Worker/Supervisor/Field Officer (BPS-16) in which only 2 have been filled thus so far and 12 more are to be filled as such.

Table -C below summarizes Table-A & B.

Table-C

S.No	Nomenclature & BPS- of the Post	Sanctioned Strength	Share of Promotion Quota	No.of Posts filled Through Promotion	Remaining promotion quota	Presently vacant post
1	Social Welfare Officer BPS-17	44	8.8 say 9	05	04	4
2	Superintendent BPS-17	17	8.5 say 9	02	07	12
3	Manager/Principal BPS-17	10	05	Nil	05	8
	Total	71	23	07	16	24


ATTESTED

There are presently 07 officers in the seniority list of Social Case Worker / Field Officer / Supervisor (Annexure-E). Their particulars are as under:

S.No	Name of Officer	Date of 1 st entry into govt. service	Length of service upto 31.10.2018			Remarks
			Year	Month	Day	
1	Mr. Faisal Khan	1.7.2011	07	04	00	The officer(s) fulfill the eligibility criteria for promotion.
2	Mr. Hamid	3.7.2013	05	03	28	
3	Mr.Sabir Khan	3.7.2013	05	03	28	
4	Mr.Sareer Khan	4.7.2013	05	03	27	
5	Mr. Alamgir	4.7.2013	05	03	27	
6	Mr.Jamal Shah	25.11.2016	01	11	07	The officers Do not fulfill the Criteria.
7	Mst: Kiran Irshad	1.6.2017	01	05	00	


As is, evident, apart from officers at S.No.6 & 7 the rest of the officers from S.No1 to S.No 5 possess the prescribed length of service, required for promotion to the post of Social Welfare Officer & Superintendent/ Manager (BPS-17) and thus are eligible to be promoted as such on regular basis.

It is certified that the officers included in the panel of promotion:

- a. Are holding the present post on regular basis and none of them is serving on adhoc basis.
- b. Have the prescribed maximum length of qualifying service/experience as required for promotion on regular basis under the rules except the officers at S.No 06 &07.
- c. Neither any anti-corruption / departmental enquiry is pending against the above mentioned officers nor was any penalty imposed against them during their entire service period.
- d. The vacant posts of Social Welfare Officer & Superintendent/ Manager (BPS-17) lying vacant are on regular budget side.
- e. No officer included in the panel of promotion was granted extra ordinary leave (leave without pay).
- f. The PERs / Synopsis of PERs in respect of the above mentioned officers are placed on board at (Annexure-F).
- g. Willingness for promotion based on priority in r/o officers included in the panel for promotion is (are) placed as (Annexure-G).

The departmental promotion committee is requested to determine the suitability of the officers for promotion as Social Welfare Officer & Superintendent/ Manager (BPS-17) on regular basis.


ATTESTED


Assistant Director
(Establishment)

(25)

Administrative E

171

Government of Khyber Pakhtunkhwa
Directorate of Social Welfare, Special Education and
Women Empowerment, Jamrud Road Peshawar.

No. E-171/DSW/Vol-III/ 9266-73
Dated Peshawar the 16/02/2015

To

1. The Principal, Govt. School for Deaf Children, Dargai Malakand Agency, Timergara Dir Lower & Gulbahar Peshawar.
2. The Manager, Center for Mentally Retarded & Physically Handicapped Children, Nowshera, Peshawar & Mansehra.
3. Vice Principal, Center Visually Handicapped Children (VHC) Charsadda.
4. District Officer, Social Welfare, Kohistan & Swabi.
5. The Assistant Director (Admn) Directorate of Social Welfare.

Subject: FINAL SENIORITY LIST OF SOCIAL CASE WORKERS, FIELD OFFICER / SUPERVISOR (BPS-16), SOCIAL WELFARE, SPECIAL EDUCATION AND WOMEN EMPOWERMENT DEPARTMENT IN KHYBER PAKHTUNKHWA.

In pursuance of Section-8 (1) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfers) Rules.1989, final seniority list of Social Case Workers, Field Officer / Supervisor (BPS-16) as stood on 31.12.2014 is hereby notified / circulated.

You are requested to notify the same amongst Social Case Workers, Field Officer / Supervisor (BPS-16) of your respective Institution.

Encl: As above.

Sd/---
Director (SW, SE & WE)

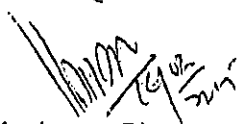

ATTESTED

Copy forwarded to:

1. Section Officer-II, Social Welfare, SE & WE, Khyber Pakhtunkhwa.
2. The District Officer, Social Welfare, Malakand, Dir Lower, Peshawar, Nowshera & Mansehra.
3. PA to DSW.



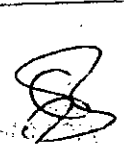

O/C


Assistant Director
(Establishment)

26

Final Seniority List of Social Case Worker (BPS-16)/Field Officer (BPS-16)/Supervisor (BPS-16) of the Directorate of Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa as - stood on 31.12.2014

S.No	Name	F/Name	BPS	Qualification	Domicile	Date of Birth	Date of 1 st appointment	Date of Present appointment	Place of present posting	Remarks
1	Mr. Muhammad Arif	Sadruddin	16	M.A (Social Work)	Charsadda	7.4.1976	3.7.2005	21.5.2010 (As Supdt. W.Home)	Rel. Officer, Drug Addicts Centre Peshawar	Promoted as Supdt: W.Home
2	Mr. Insaf Ur Rehman	Amal Badshah	16	M.A (Social Work)	Karak	3.6.1976	3.7.2005	21.5.2010 (As Supdt. W.Home)	District Officer, Social Welfare Laki Marwat	Promoted as Supdt: w.Home
3	Mr. Nasib Gul	Wazir Gul	16	M.A (Sociology)	Malakand	1.3.1977	1.1.2009	1.1.2009	Government School for Deaf Children, Dargai, Malakand Agency	
4	Mst. Hina Arif	Faqir Muhammd Arif	16	M.A (Anthropology)	Swabi	29.12.1983	3.10.2009	3.10.2009	Presently performing her duties as Supervisor in the Directorate of SW, SE & WE, KPK	
5	Mst. Hina Shafi	Shafiullah Khan	16	M.A (Social Work)	Peshawar	6.9.1986	3.10.2009	3.10.2009	Artificial Limbs Workshop, K.T.H Peshawar	
6	Mr. Sohail Nadir	Nadir Khan	16	M.A (Sociology)	Charsadda	20.4.1979	8.10.2009	8.10.2009	Posting Centre for Mentally Retarded & Physically Handicapped Children	

ATTESTED



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7	Mr. Shakeel Iqbal	Inayat Shah	16	M.A (Sociology)	Karak	15.5.1983	5.10.2009	5.10.2009	Nowshera Center for Mentally Retarded & Physically Handicapped Children, Peshawar	
8	Mr. Muhammad Zeb	Arsh Ullah Khan	16	M.A (Sociology)	Dir (Lower)	10.8.1983	10.10.2009	10.10.2009	Government School for Deaf Children, Timargara, (Dir Lower)	
9	Mr. Salahuddin	Ihsan Ullah	16	M.A (Social Work)	Khyber Agency	4.2.1977	2.10.2009	2.10.2009	Government School for Deaf Children, Gubahar, Peshawar.	
10	Mr. Faisal Khan	Aurangzeb	16	M.A (Anthropology)	Charsadda	20.4.1982	1.7.2011	1.7.2011	Posted in Visually Handicapped Centre devolved Institution Charsadda	Reinstated purely on Provisional basis subject to the final decision on CPLA.
11	Mr. Hamid	Khair Gul	16	M.A (Sociology)	Khyber Agency	13.12.1984	3.7.2013	3.7.2013	Presently performing his duties as DD (SW) Kohistan.	
12	Mr. Sabir Khan	Haider Gul	16	M.A (Anthropology)	Malakand Agency	15.3.1984	3.7.2013	3.7.2013	Center for Mentally Retarded & Physically Handicapped	



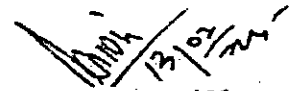
ATTESTED

28

13	Mr. Sareer Khan	Khan Rehman	16	M.A (Sociology)	Mohmand Agency	25.5.1980	4.7.2013	4.7.2013	Children, Manshra Presently performing his duties as Field Officer at DSW KPK
14	Mr. Alamgir	Amin Khan	16	M.A (Sociology)	Swabi	3.3.1986	4.7.2013	4.7.2013	Presently performing his duties as DO (SW) Swabi.




ATTESTED


13/07/2013
Assistant Director
(Establishment)



S.No	Name of Officer	Designation/BPS	Willingness order
1	Mr. Faisal Khan	Social Case Worker (BPS-16)	1. Manager 2. Social Welfare Officer 3. Superintendent Institutions
2	Mr. Hamid	Field Officer (BPS-16)	1. Social Welfare Officer 2. Manager 3. Superintendent Welfare Home
3	Mr. Sabir Khan	Social Case Worker (BPS-16)	1. Manager 2. Superintendent 3. Social Welfare Officer
4	Mr. Sareer Khan	Social Case Worker (BPS-16)	1. Social Welfare Officer 2. Manager 3. Superintendent
5	Mr. Alamgir	Social Case Worker (BPS-16)	1. Social Welfare Officer 2. Superintendent 3. Manager


ATTESTED




SYNOPSIS OF PERFORMANCE EVALUATION REPORTS IN RESPECT OF MR. FAISAL KHAN SOCIAL CASE WORKER (BPS-16).

183

S. No	Year	Grading	Remarks of the Reporting Officer	Remarks of the Countersigning Officer	Remarks of the 2 nd Countersigning Officer
1	2013		The officer was re-instated on court order w-e-f 01-07-2011(Annexure-H) and assumed the charge on 01-04-2014(Annexure-I).		
2	2014 (April-Dec)	Good	His work output was quite good and he is eligible for any post relevant to his qualification	Agreed with the remarks of reporting officer. He is well behaved and competent.	
3	2015	Good	The officer concern is trust worthy and honest devoted helpful, logical, decisive and devoted human being. He takes keen interest in the welfare in the students and staff. He can shoulder any responsibility resign to him.	Mr. Faisal Khan is an outstanding officer as I see him, successful in all his assignments.	
4	2016	Very Good	The officer concern is trust worthy, honest, devoted, helpful, logical decisive and devoted human being. He takes keen interest in the welfare in the students and staff. He can shoulder any responsibility resign to him.	A very devoted officer. I agreed with remarks of R.O	
5	2017	Good	Officer is punctual, devoted, self confidence and hard worker, suitable for promotion.	As reported, agreed	


ATTESTED


 Assistant Director
 (Establishment)


(31)

184

SYNOPSIS OF PERFORMANCE EVALUATION REPORTS IN RESPECT OF
Mr: HAMID, FIELD OFFICER (BPS-16)

S. #	Year	Grading	Remarks of the Reporting Officer	Remarks of the Countersigning Officer	Remarks of the 2 nd Countersigning Officer
1	2013 (July-Dec)	Good	An honest and trustworthy officer	Agreed with the remarks of R.O.	-
2	2014 (Jan-March) (April-Dec)	Good Good	Devoted to his job. Devoted to his job.	Counter Signed Counter Signed	-
3	2015 (Jan-April) (May-Dec)	Good Very Good	Devoted to his job. Honest and competent, can be posted at any responsible post.	Counter Signed Remarks of R.O agreed to.	-
4	2016 (Jan-to July) (Aug-Dec)	Good Good	Honest and competent. Honest and competent.	He takes keen interest of the assigned tasks. Hones and trust worthy.	-
5	2017	Very Good	Honest and competent.	Agreed with the remarks of Reporting Officer.	-


ATTESTED


Assistant Director
(Establishment)

**SYNOPSIS OF PERFORMANCE EVALUATION REPORTS IN RESPECT OF
MR: SABIR KHAN, SOCIAL CASE WORKER (BPS-16).**

185

S. No	Year	Grading	Remarks of the Reporting Officer	Remarks of the Countersigning Officer	Remarks of the 2 nd Countersigning Officer
1	2013 (July-Dec)	Very Good	Honest, punctual, hardworking and responsible.	Agreed with the reporting officer	-
2	2014	Good	Honest, punctual, hardworking and responsible.	Agreed with the reporting officer	-
3	2015	Good	Dedicated, Honest, Punctual, Fit for Promotion.	I Agree with R.O	-
4	2016	Good	Dedicated, Honest and excellent in impression, also fit for promotion.	Counter Signed	-
5	2017	Good	Honest, punctual, hardworking and fit for promotion.	Counter Signed	-



ATTESTED


Assistant Director
(Establishment)

**SYNOPSIS OF PERFORMANCE EVALUATION REPORTS IN RESPECT OF
MR: SARIR KHAN, SOCIAL CASE WORKER (BPS-16).**

186

S. No	Year	Grading	Remarks of the Reporting Officer	Remarks of the Countersigning Officer	Remarks of the 2 nd Countersigning Officer
1	2013 (July-Dec)	Very Good	His research & monitoring skills, and experience on community development projects. Suitable for monitoring officer and any other social welfare related job.	Whenever, any task assigned to him, he successfully fulfil the entire task in prescribed time frame of work. He has the potential to deal with multi dimensional tasks within a same speculated time. I would accept him in higher grade if he is promoted	Countersigned
2	2014	Good	Fit for promotion on his turn.	Agreed with the remarks of R.O.	Countersigned
3	2015	Very Good	The officer is dutiful, punctual and competent to cope with assigned task in limited time. Suitable for any administrative post in SWD.	Agreed with the R.O.	Countersigned
4	2016	Good	Honest and Competent	Mr. Sareer has great potential and can serve on better position independently and whole heartedly.	-
5	2017 (Jan-May) (June-Dec)	Very Good Good	He knows his job very well. He is very committed officer and takes great pain in performing in his duties effectively.	Agreed with the remarks of RO. Agreed with the RO.	-


ATTESTED

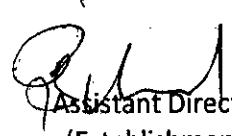

Assistant Director
(Establishment)

**SYNOPSIS OF PERFORMANCE EVALUATION REPORTS IN RESPECT OF
MR: ALAMGIR, SOCIAL CASE WORKER (BPS-16).**

187

S.No	Year	Grading	Remarks of the Reporting Officer	Remarks of the Countersigning Officer	Remarks of the 2 nd Countersigning Officer
1	2013 (July-Dec)	Very Good	The concerned officer is honest and competent.	The officer concerned is hardworker and punctual and personally known to me.	-
2	2014 (Jan-Jun)	Very Good	The officer concerned is devoted and well conversant in his field.	The officer concerned has excellent record and performance. Agreed with comments of R.O	-
	(July-Dec)	Very Good	The officer concerned is devoted and honest in his duties.	The officer concerned is hardworker and personally known to me and punctual.	
3	2015	Good	Honest and competent.	Excellent performance. Agreed with remarks of Reprting Officer.	-
4	2016	Good	Honest and competent.	Excellent performance. Agreed with R.O.	-
5	2017	Good	Honest and competent.	Countersigned.	-


ATTESTED


Assistant Director
(Establishment)

To

35

08-01-2019

Secretary to Govt of Khyber Pakhtunkhwa
For Social Welfare SE & WE Department Peshawar

Through: Proper Channel

Subject: - APPEAL FOR PROMOTION

R/ Sir,

We have the honor to refer to the subject noted above and to state that we were recommended by the Khyber Pakhtunkhwa Public Service Commission for appointment against the posts of Field Officer (BPS-16) and Social Case Workers (BPS-16) and assumed the charges as such in the Directorate and districts offices of Social Welfare, Special Education & Women Empowerment on **03.07.2013**.

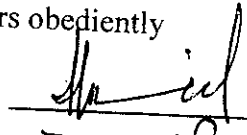
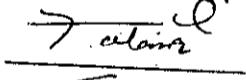
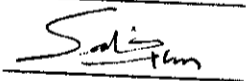
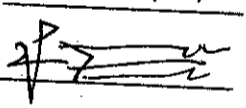
As per existing service rules of the Department the incumbents of the post of Field Officer (BPS-16) and Social Case Workers (BPS-16) will have to be promoted to the post of Social Welfare Officer / Manager / Superintendent Welfare Home (BPS-17) under prescribed quota. The required length of service (**05 years**) for promotion to BPS-17 of the undersigned has been completed on **02.07.2018**.

The undersigned submitted applications dated 17-05-2018, 10-07-2018 17-10-2018 and working paper was forwarded to your office on 16-11-2018. (Copies enclosed for ready reference please)

It may please be noted that our case has been delayed due to unknown reasons which have deprived us from our legal right and may adversely affect our service career.

Therefore, your good self is hereby requested to take notice of the said delay and the concerned section may be directed to expedite the case and consider our promotion from **03-07-2018** please.

Yours obediently

- 1. Hamid 
- 2. Alamgir Khan 
- 3. Sabir Khan 
- 4. Sareer Khan 



ATTESTED

Social Welfare
Spl: Edu & Women Empowerment
Khyber Pakhtunkhwa

Copy forwarded to:

- 1. SO-II Social Welfare, Spl: Edu & Women Empowerment Deptt KPK, Peshawar.
- 2. PS to Secretary, Social Welfare, Spl: Edu & Women Empowerment KPK, Peshawar.
- 3. PA to Deputy Secretary (Admn) Social Welfare, Spl: Edu & Women Empowerment deptt KPK, Peshawar.

O/C

- 1. Hamid _____
- 2. Alamgir Khan _____
- 3. Sabir Khan _____
- 4. Sareer Khan _____

Social Welfare
Spl: Edu & Women Empowerment
Khyber Pakhtunkhwa

Directorate of
Social Welfare KPK
No: 38913
Date: 14-01-2019

36

"K"
/



Government of Khyber Pakhtunkhwa
Directorate of Social Welfare, Special Education and
Women Empowerment Jamrud Road Peshawar.

091-9224253

No. E-17/79/DSW/Vol:IV 4864-65
Dated Peshawar the 23/01/2019

To

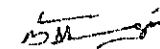
The Secretary, to Government of Khyber Pakhtunkhwa,
Social Welfare, Special Education & Women Empowerment,
Department Peshawar.

Subject: APPEAL FOR PROMOTION

Dear sir,

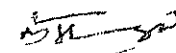
I am directed to refer to the subject note above and to enclose
herewith an appeal in original (self explanatory) submitted by Social Case Workers
BPS-16 and Field Officers BPS-16, for further necessary action please.

Encl: as Above


ASSISTANT DIRECTOR (Estab)
Directorate of SW SE & WE
Peshawar

Copy to
1. Social Case Workers and Field Officer.


ATTESTED


ASSISTANT DIRECTOR (Estab)
Directorate of SW SE & WE
Peshawar

O/C

37

80

GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHER, SOCIAL WELFARE, SPECIAL EDUCATION &
WOMEN EMPOWERMENT DEPARTMENT

Dated Peshawar the 26th June, 2015

Notification

No. SOII(SW)II-105/2015/923-511 Consequent upon the recommendations of the Departmental Promotion Committee, the competent authority is pleased to order the promotion of the following Social Case Workers (BPS-16) to District Officer Social Welfare (BPS-17), on regular basis with immediate effect.

S#	Name of Officers
1.	Mr. Nasib Gul
2.	Mst. Hina Arif
3.	Mst. Hina Shafi,
4.	Mr. Sohail Nadir,
5.	Mr. Shakil Iqbal
6.	Mr. Muhammad Zub
7.	Mr. Sala-ud-din

2. On promotion, the above officers will be on probation for a period of one year in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (APT) Rules, 1989.

3. Resultantly the following postings/transfers are ordered with immediate effect.

S#	Name of Officers	Place of present posting	Proposed to be posted as	Remarks
1.	Mr. Nasib Gul, Social Case Worker (BPS-16)	Working as SWO of devolved facilities CDC/SSMS Chakdara.	Social Welfare Officer (BPS-17), Social Welfare Centre, (Adenzai) Dir Lower.	Against the vacant post. Will also hold the charge of devolved Units at Chakdara.
2.	Mst. Hina Arif, Social Case Worker (BPS-16)	Supervisor (BPS-16), Directorate of Social Welfare.	Social Welfare Officer (BPS-17), office of the DO (SW) Peshawar.	Against the vacant post.
3.	Mst. Hina Shafi, Social Case Worker (BPS-16)	Artificial Limbs Workshop Peshawar	Manager, Women Crises Centre Peshawar.	Vice No.8
4.	Mr. Sohail Nadir, Social Case Worker (BPS-16)	Working against the post of Social Welfare Officer (BPS-17) Charsadda in his OPS.	As Social Welfare Officer (BPS-17) at Charsadda (already working against the said post).	

P.T.O

ATTESTED

38

5.	Mr. Shakil Iqbal, Social Case Worker (BPS-16)	Working against the post of District Officer, Social Welfare Tank in his OPS.	As District Officer Social Welfare, Tank. (already working against the said post).
6.	Mr. Muhammad Zeb, Social Case Worker (BPS-16)	Working against the post of District Officer Social Welfare Dir Lower with additional charge of the post of DO (SW) Dir upper in his OPS.	As District Officer (SW) Dir Lower (already working against the said post).
7.	Mr. Salah-ud-din, Social Case Worker (BPS-16)	Government School for Deaf Children Gulbahar Peshawar.	As District Officer Social Welfare Dir Upper.
8.	Mst: Nadia Shah, Manager (BPS-17)	Women Crises Centre, Peshawar.	Relieving Mr. Muhammad Zeb from the additional charge of the post DO (SW) Dir Upper. Against the vacant post.
		Social Welfare Officer (H), Directorate of Social Welfare Khyber Pakhtunkhwa.	

SD/-

Secretary to Government of Khyber Pakhtunkhwa
Zakat, Ushr, Social Welfare, Special Education &
Women Empowerment Department

Endst: of Even No & Date:

Copy is forwarded for information and necessary action to:-

- 1) The Accountant General, Khyber Pakhtunkhwa Peshawar.
- 2) Director, Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa Peshawar.
- 3) District Accounts Officers, Peshawar; Tank, Dir Lower, Dir Upper and Charsadda.
- 4) District Officers, Peshawar, Tank, Dir Lower, Dir Upper and Charsadda.
- 5) PS to Special Assistant to Chief Minister for Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa Peshawar.
- 6) PS to Secretary, Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department, Khyber Pakhtunkhwa Peshawar.
- 7) Officer concerned.SS
- 8) Personal file.

(Zar Gul Khan)
Section Officer II

ATTESTED



091-9224253

39

Government of Khyber Pakhtunkhwa
Directorate of Social Welfare, Special Education and
Women Empowerment Jamrud Road Peshawar.

“L”

Dated Peshawar the 19/03/2019

ORDER.

No.E-17/17/DSW/Vol-6/6942-44. In pursuance of Section 8 (1) of Khyber Pakhtunkhwa Civil servants Act, 1973 read with Sub- Rule (b) & (4) of Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfers) Rules 1989 added Vide Notification No.SOR -VI(E&AD)1-3/2008 dated 19-11-2009, Tentative seniority list of Social Case Worker/ Field Officer BPS-16, Social Welfare, Special Education & Women Empowerment Department, Khyber Pakhtunkhwa as stood on 31.12.2018.

S. #	Name	F/Name	Qualification	Domicile	Date of Birth	Date of 1 st appointment	Date of Prest: appoint:	Place of present posting	Remarks
1	Faisal Khan	Aurangzeb	M.A (Anthrop:)	Charsadda	20.4.1982	1.7.2011	1.7.2011	VHC Charsadda	
2	Hamid	Khair Gul	M.A (Socio:)	Khyber Agency	13.12.1984	3.7.2013	3.7.2013	DSW	
3	Sabir Khan	Haider Gul	M.A (Anthrop:)	Malakand Agency	15.3.1984	3.7.2013	3.7.2013	MRPH Mansehra	
4	Sareer Khan	Khan Rehman	M.A (Socio:)	Mohmand Agency	25.5.1980	4.7.2013	4.7.2013	Secretariat SW, SE & WE KPK.	
5	Alamgir	Amin Khan	M.A (Socio:)	Swabi	3.3.1986	4.7.2013	4.7.2013	DO (SW) Swabi.	
6	Nisar Ahmad	Haji Badshah Muhammad	B.A Honors (Sociology)	Dir Lower	03.02.1984	22.11.2016	22.11.2016	GSDC Dir Lower	
7	Muhammad Ibrahim	Said Farosh	M.A (Socio:)	12.04.1986	12.04.1986	25.11.2016	25.11.2016	GSDC Swabi	
8	Malik Jamal Shah Yousafzai	Shahab Ud Din	M.A S. Work	Dir Lower	02.04.1987	25.11.2016	25.11.2016	DSW	
9	Mst: Kiran Irshad	Irshad Hussain	M.Sc (Anthro:)	Haripur	6.9.1988	1.6.2017	1.6.2017	GSDC Haripur	

JTC
Handover to Mr. Hamid see from
19/3/19

1. Section Officer (G) SW, SE & W.E Department, Khyber Pakhtunkhwa.
2. Assistant Director (Admin), Directorate of SW, SE & WE Department Khyber Pakhtunkhwa.
3. District Officer, Social Welfare, Charsadda, Dir Lower, Haripur, Mansehra & Swabi.

The Officers at Sr. # 1 to 3 above are requested to circulate the above tentative seniority list amongst the incumbents and submit any objection/ correction within 15 days of the receipt of this letter.

[Signature]
Assistant Director
Establishment

[Signature]
Assistant Director
Establishment

[Signature]
ATTESTED

"M"

223

To

Deputy Secretary
Social Welfare SE & WE Department Peshawar

Subject: - REQUEST FOR PROMOTION

R/ Sir,

I have the honor to refer to the subject noted above and to state with great respect that I have been recommended by the Khyber Pakhtunkhwa Public Service Commission on open merit for appointment against the post of Field Officer (BPS-16) and assumed the charges as such in the Directorate of Social Welfare, Special Education & Women Empowerment Peshawar on 03.07.2013.

As per service rules of the Department the incumbents of the post of Field Officer (BPS-16) will have to be promoted to the post of Social Welfare Officer (BPS-17) etc under prescribed quota after five years' service. The required length of service (05 years) for promotion to BPS-17 of the undersigned has been completed on 02.07.2018.

I have submitted several applications dated 17-05-2018, 10-07-2018, 17-10-2018 and working paper was forwarded to Section Officer-II office on 16-11-2018 from Directorate of Social Welfare Peshawar for the said purpose.

It may please be noted that the meeting of Pre-Departmental Promotion Committee also held at the office of Secretary Social Welfare on 28th March, 2019 but the case is being delayed due to unknown reasons unfortunately which deprived me from legal rights and may adversely affect my service career as well.

Therefore, your good self is hereby requested and your door is being knocked that the undersigned may be promoted and consider sympathetically his promotion from 03-07-2018 accordingly please.

Yours obediently
[Signature]
Field Officer

Directorate of Social Welfare
Spl: Edu & Women Empowerment

ATTESTED

[Signature]
Plz check and report.

[Signature]
13/19.

[Signature]

immediate / copy sent
address to DSO for prompt

[Signature]
14/19

Directorate of Social Welfare
 Spl. Edu & Women Empowerment
 Hyber Pakhtunkhwa Province

Yours obediently,
 M. Ahmad
 Field Officer

I have the honor to refer to the subject noted above and to state with great respect that I had been recommended by the Hyber Pakhtunkhwa Public Service Commission on an open merit for appointment against the post of Field Officer (BPS-16) and assumed the charge as such in the Provincial Office of Social Welfare, Special Education & Women Empowerment Peshawar on 03.07.2013. As per service rules of the Department the incumbents of the post of Field Officer (BPS-16) will have to be promoted to the post of Social Welfare Officer (BPS-17) etc under prescribed quota after five years of service. The required length of service (05 years) for promotion to BPS-17 of the undersigned has been completed on 02.07.2018.

I have submitted several applications dated 17-05-2018, 10-07-2018, 17-10-2018 and 10-11-2018 for promotion to Section Officer-II office on 16-11-2018 from Directorate of Social Welfare, Peshawar for the said purpose.

It may please be noted that the meeting of Pre-Departmental Promotion Committee also held at the office of Secretary Social Welfare on 28th March, 2019 but the case is being delayed due to unknown reasons unfortunately which deprived me from legal rights and may adversely affect my service career as well.

Therefore, your good self is hereby requested that the applicant may be promoted and consider sympathetically his promotion from 03-07-2018 accordingly please.

The Director
 Social Welfare SF & WE Department
 Hyber Pakhtunkhwa, Peshawar

REQUEST FOR PROMOTION

WELFARE, SPECIAL EDUCATION
 & WOMEN EMPOWERMENT DEPARTMENT
 HYBER PAKHTUNKHWA
 PESHAWAR

23

ADP (R) / 13/12/18
 Ptdp with
 13/12/18
 Dismiss
 46970
 13-12-18

42

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

1
"0"

W.P.No. 3743/2019

Hamid s/o Khair Gul

R/o Village Shaheed Kally, Mirdad Khel

Landi Kotal, Khyber Agency

Presently Field Officer (BPS-16) Directorate of Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa.....Petitioner

Versus

- 1) Govt. of Khyber Pakhtunkhwa through Chief, Civil Secretariat, Peshawar.
- 2) Secretary Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 3) Director Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa.
- 4) Secretary Establishment, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 5) Secretary Finance, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.....Respondents

FILED TODAY
Deputy Registrar
26 JUN 2019

WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC REPUBLIC
OF PAKISTAN, 1973



ATTESTED

Respectfully Sheweth;

- 1) That the petitioner before your honour is field officer (BPS-16) in the Directorate of Social Welfare, Special Education and Women Empowerment Department, Khyber Pakhtunkhwa and law abiding citizen of Pakistan.

- 2) That initially respondent No.3 on the recommendation of Khyber Pakhtunkhwa Public Service Commission offered the post of Field Officer (BPS-16) in Social Welfare, Special Education and Women Empowerment Department K.P. on regular basis to the petitioner vide dated 01.07.2013. (Copy of office letter is attached as Annexure "A").
- 3) That the petitioner accepted the offer after which the order of appointment was issued by the respondent No.3 vide appointment order No.E-17/54/DSW/Vol-18/657-62 dated 03.07.2013. (Copy of order is attached as Annexure "B").
- 4) That the petitioner after the appointment order assumed the charge as Field Officer vide dated 03.07.2013. (Copy of the charge assumption report is attached as Annexure "C").
- 5) That the petitioner submitted an application for promotion from BPS-17 as per service rules before the respondent No.3 vide dated 18.05.2018 and again reminder on 17.10.2018. (Copies of applications are attached as Annexure "D and D/1").
- 6) That the working papers have been issued but the respondents are reluctant to promote the petitioner thus aggrieved from the acts of the respondents impugned here inter alia on the following grounds:

GROUND'S:

a. That the act of respondents by not promoting is against law, rules and constitutional rights of the petitioner, hence not tenable in the eye of law.

b. That the petitioner has completed (05) five years of his service which is mandatory for promotion as per service rules, thus ignored the same.

c. That the petitioner is working as Field Officer and at the same the petitioner can be promoted from three different channels as per rules i.e. as Manager BPS-17, as Superintendent BPS-17 and as Social Welfare Officer BPS-17. (Copy of the Rules of promotion is attached as Annexure "E and F").

ATTESTED

FILED TODAY

Deputy Registrar

26 JUN 2019

- d. That the required length of service for promotion to BPS-17 is (05 years) is completed on 02.07.2018 in all respect and the delay in promoting the petitioner is against the law of the land, thus committing illegality by depriving the petitioner from legal right/fundamental rights.
- e. That the petitioner has fulfilled the eligibility criteria for promotion without any objection whatsoever, thus the respondents are duty bound to promote the petitioner from the date of completion of (05) five years as per rules.
- f. That there are no reason or ground for the delay in the promotion of the petitioner and also there is no hurdle left in the way of the promotion in accordance to the law.
- g. That non-promotion of the petitioner to the next higher grade is not only illegal, incorrect, irrational but it is also clear cut command of the constitution provided by Article 4 and 5.
- h. That even in Article 37 and 38 it is clear mentioned that the state will promote the social and economic well being of the citizen and such non-promotion of the petitioner amounts to demote economic and social life of the petitioner.
- i. That it is pertinent to mention here that the petitioner is on the second position in the seniority list is qualified and eligible for the said post thus respondents are reluctant to act according to the law and rules.
- j. That working paper for the promotion is already prepared but respondents are reluctant to convene the PSB meeting for promotion and such non-convening PSB badly affect petitioner's right of promotion to the next higher grade. (Copy of working paper along with seniority list is attached as Annexure "G").
- k. That any other grounds will be taken at the time of arguments with the permission of this hon'ble court.

**ATTESTED**

FILED TODAY
Deputy Registrar
26 JUN 2019

It is, therefore, most humbly prayed that on acceptance of this writ petition, an order may kindly be issued:

- i) **Direct** the respondents to promote the petitioner as per Rules of the department because of fulfilling the eligibility criteria to the next higher post i.e (BPS-17) from the date 03.07.2018 with all back and consequential benefits.
- ii) **Declare** the Non-promotion of petitioner to the next higher scale/ post by the respondent as illegal and against the rules of the department and such act and omission of respondent affect petitioner's right of promotion.
- iii) Any other remedy deems just and proper and not specifically asked for, may also be awarded in favour of the petitioner and against the respondents.

Through

Petitioner

Adnan Khattak
Adnan Khattak
Advocate, Peshawar.

Adnan Khattak
ATTESTED

CERTIFICATE:

It is certify that, no such like writ petition has earlier been filed by the petitioner(s) in this Hon'ble Court. Further stated that being writ petition on the score that since there is no adequate and alternate legal remedy is available or previously avail or approach lower forum, thus this case may be fixed before the Worthy Division Bench (D.B) of this Hon'ble Court.

LIST OF BOOKS:

- 1) Constitution of Islamic Republic of Pakistan, 1973.
- 2) Any other law book as per need.

Adnan Khattak
Advocate

FILED TODAY
Deputy Registrar
26 JUN 2019

46

"P"

PESHAWAR HIGH COURT, PESHAWAR		
FROM 'A'		
FORM OF ORDER SHEET		
COURT OF CASE NO.		
SERIAL NO OF ORDER OR PROCEEDINGS	DATE OF ORDER OR PROCEEDINGS	ORDER OR OTHER PROCEEDINGS WITH SIGNATURE OF JUDGE OR MAGISTRATE AND THAT OF PARTIES OR COUNSEL WHERE NECESSARY.
1	2	3
09.10.2019		<p>W.P. No. 3743-P/2019 with IR.</p> <p>Present: -</p> <p>Mr. Adnan Khattak, advocate for the petitioner.</p> <p>Mr. Muhammad Sohail, AAG for the official respondents.</p> <p>*****</p> <p>WAQAR AHMAD SETH CJ:- Through the instant constitutional petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner prayed that on acceptance of this writ petition, an order may kindly be issued;-</p> <ol style="list-style-type: none">i. Direct the respondents to promote the petitioner as per Rules of the department because of fulfilling the eligibility criteria to the next higher post i.e. (BPS-17) from the date 03.07.2018 with all back and consequential benefits.ii. Declare the Non-promotion of petitioner to the next higher scale/post by the respondent as illegal and against the Rules of the department and such act and omission of respondent affect petitioner's right of promotion.iii. Any other remedy deems just and proper and not specifically asked for, may also be awarded in favour of the petitioner and against the respondents. <p>2. Though the learned counsel for the petitioner argued the case at some length, but, during the course of arguments,</p>


ATTESTED

47

he stated at the bar that petitioner would be satisfied if the instant constitutional petition be forwarded to the Department concerned with the directions to treat the same as **Departmental Appeal** and be decided within stipulated period.

3. In view of the above petition in hand is hereby forwarded to quarter concerned/respondents with the direction to treat it as departmental appeal and dispose of by issuing an speaking/explicit order within 30-workin days.

With these observations, petition in hand is disposed of.



CHIEF JUSTICE



JUDGE

ANNOUNCED
09.10.2019




ATTESTED

48

"Q"

To


The Director,
Directorate of Social Welfare, Special Education &
Women Empowerment Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: W.P.No. 3743-P/2019
R/Sir,

Enclosed please find herewith Peshawar High Court Judgment (W.P.No. 3743-P/2019) for further necessary action please.

Yours sincerely,


15/10/19
2019
HAMID


Field Officer BPS-16
Directorate of SW, Spl Edu & WE
Dated: 15-10-2019




0/0

Copy forwarded to:

1. PS to Secretary, Social Welfare, Special Education and Women Empowerment Khyber Pakhtunkhwa Peshawar.




HAMID
Field Officer BPS-16
Directorate of SW, Spl Edu & WE
Dated: 15-10-2019

قیمت 50 روپے	25876	  
ایڈوکیٹ: <u>اطیر عباس</u>		
بار کونسل / ایسوسی ایشن نمبر: <u>BC-10910-8</u>		<p>پشاور بار ایسوسی ایشن، خیبر پختونخواہ</p>
رابطہ نمبر: <u>0312-8818812</u>		

بعدالت جناب: چیمبر بین سروس ٹریڈینگز خیبر پختونخواہ شمارہ

مخاطب: <u>مسائل</u>	دعویٰ: <u>سروس ایپیل</u>
	علت نمبر: _____
	مورخہ: _____
	جرم: _____
	تھانہ: _____
حاضر بنام حکومت	
باعث تحریر آنگہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام سٹارٹس کیلئے اطیر عباس اور ڈولڈ کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے
 المرقوم:

_____ بد _____
 مقام ڈسٹرکٹ سٹارٹس کے لیے منظور ہے۔

Attested & Accepted by

Athar Abbas Adv

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service appeal No. 1288/2020,

**HAMID S/O KHAIR GUL R/O MR & PHC PAJAGAI ROAD BASHIRABAD,
PESHAWAR.....APPELLANT**

VERSUS


1. Govt of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary Social Welfare, Special Education & Women Empowerment Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
3. Director Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Road Peshawar.
4. Secretary Establishment Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
5. Secretary Finance Khyber Pakhtunkhwa, Civil Secretariat Peshawar.

.....**RESPONDENTS**

PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth,

The respondents submit as under:-

P.O.F.

03/06/21

PRELIMINARY OBJECTIONS:

1. The appellant has got no cause of action and locus standi to file the instant service appeal
2. The appeal is not maintainable in its present form.
3. The appeal is based on malafide intentions.
4. The appeal is badly time barred.
5. The appellant has not come to Honorable Tribunal with clean hands..
6. The appeal is liable to be dismissed for mis-joinder and non-joinder of necessary and proper parties.
7. The appeal is barred by the prevailing law & rules.
8. The appeal is against the law as promotion is always notified with immediate effect after completion of codal formalities.
9. That this Honorable Tribunal Lacks Jurisdiction to adjudicate upon the matter.

REPLY ON FACTS

1. Pertains to record.
2. Pertains to record.
3. In reply it is submitted that promotion to the next higher grade is subject to seniority-cum-fitness and given through Departmental Promotion Committee. Promotion is always given with immediate effect as per the Promotion Policy of Govt. of Khyber Pakhtunkhwa
4. Incorrect, hence denied. That the appellant submitted an application for promotion (**Annex-A**) and in response, his application for promotion was considered as per rules.
5. There is glaring contradiction in Para No. 04 and 05 of the appeal. In Para 04, the applicant claims that no action was taken on his application, whereas in Para


- 05, the applicants claims that his application was forwarded by Respondent No. 03 and the petitioner promoted **(Annex-B)**.
6. Incorrect, hence denied. The Assistant Director (Establishment) initiated the process of promotion of the appellant with the approval from Respondent No. 3 by issuing working paper.
 7. Incorrect, hence denied. That the meeting of Departmental Promotion Committee has been conducted however, the delay in conducting of DPC's meeting was due to following reasons.
 - (a) The Department initiated the re-structuring proposal of the Department **(Annex-C)**.
 - (b) The Department was in process of amending the Service Rules and after completion of the process notified the rules on 25-09-2019**(Annex-D)**.
 - (c) This Hon'able Tribunal issued stay order in Service Appeal No. 666/2020 **(Annex-E)**.
 8. Incorrect, hence denied. The respondent No. 3 issued the tentative seniority list and the appellant has been promoted vide order No. SO-II(SWD)/II-209/2020/3584-90 dated 29-10-2020 as Social Welfare Officer (BPS-17) therefore the instant appeal is infructuous and liable to be dismissed summarily and to save the precious time of Honorable Tribunal.
 9. Incorrect hence denied. The case of the appellant was processed positively and the appellant has been given his due right by promoting him from the post of field Officer BPS-16 to Social Welfare Officer BPS-17.
 10. In reply, it is submitted That the respondents granted the appellant his due right after completing all codal formalities and following the rules and regulation as mentioned in the Esta Code Page No 58 that "promotion will always be notified with immediate effect" **(Annex-F)**.
 11. In reply, it is submitted that in pursuance of the Honorable court's order, the respondents have started the process of promotion. Now, the appellant has been promoted to the position of Social Welfare Officer (BPS-17) vide order No SO-II (SWD)/II-209/2020/3584-90 dated 29-10-2020. **(Annex-G)**
 12. Incorrect, hence denied. The respondents have promoted the appellant to the post of Social Welfare Officer (BPS-17) as per rules & Regulations and the claim of the appellant is illegal, unlawful and against the rules and regulations.
 13. The appellant has been promoted. Detail reply already given in Paras ibid.


REPLY ON GROUNDS:-


- a. Incorrect, hence denied. The appellant has been treated in accordance with law and respondents have acted in accordance with Constitution of Pakistan 1973 by promoting the appellant to the post of Social Welfare Officer.
- b. Incorrect, hence denied. The respondents have considered the appellant for promotion and have given the appellant his due right.

- c. Incorrect, hence denied. That there has been no negligence on the part of respondents and that is the reason the appellant have been promoted to the post of Social Welfare Officer as per rules and regulations.
- d. Incorrect, hence denied. That the respondents entertained the Department appeal of the appellant, and issued working paper (Annex-G) and seniority list (AnnexH) and ultimately after completion of all the pre-requisite procedure, the appellant was promoted. Detail reply is already given in Para7 ibid.
- e. Incorrect, hence denied. The detail reply has been explained in the above paras.
- f. Incorrect hence denied. As explained in paras ibid.
- g. Already explained in above paras.
- h. Incorrect, hence denied. The appellant have been promoted to the post of Social Welfare Officer according to rules set in the Esta code which clearly mentioned that promotion will always be notified with immediate effect.
- i. Any other ground deem appropriate, shall be raised during the arguments with permission of this Hon'able Tribunal.

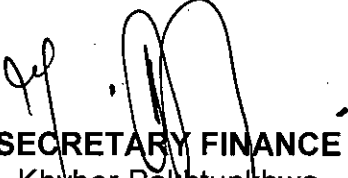
It is therefore humbly prayed that the instant appeal may graciously be dismissed with cost.


CHIEF SECRETARY
Khyber Pakhtunkhwa
(Respondent No. 1)


SECRETARY
Social Welfare, Special Education and
Women Empowerment Department
Government of Khyber Pakhtunkhwa
(Respondent No. 2)


DIRECTOR
Social Welfare, Special Education &
Women Empowerment Department
Khyber Pakhtunkhwa
(Respondent No. 3)


SECRETARY ESTABLISHMENT
Khyber Pakhtunkhwa
(Respondent No. 4)


SECRETARY FINANCE
Khyber Pakhtunkhwa
(Respondent No. 5)

To

(18)

Annex A

~~18~~
Appeal-I

28

The Director,
Social Welfare, Special Education &
Women Empowerment Khyber Pakhtunkhwa.

Subject: APPLICATION FOR PROMOTION FROM BPS-16 TO BPS-17

R/Sir,

With due respect it is stated that I was recommended by the Khyber Pakhtunkhwa Public Service Commission against the post of Field Officer (BPS-16) in the Directorate of Social Welfare, Special Education & Women Empowerment on 03.07.2013.

As per service rules of the Department the incumbent of the post of Field Officer (BPS-16) will have to promote to the post of Social Welfare Officer / Manager / Superintendent Welfare Home (BPS-17) under 50% quota reserved. The required length of service for promotion to BPS-17 of the undersigned will be completed on 02.07.2018.

It is, therefore, requested that I may kindly be granted promotion in BPS-17 against the quota reserved and oblige.

Yours Obediently

Hamid
(Hamid) 18/5/18

Field Officer (BPS-16)
Directorate of Social Welfare
Spl: Edu. & Women Empowerment
Khyber Pakhtunkhwa.

Copy forwarded to:

- 1. PS to Secretary, Social Welfare, Spl: Edu. & Women Empowerment.

Hamid
18/5/18

Field Officer (BPS-16)
Directorate of Social Welfare
Spl: Edu. & Women Empowerment
Khyber Pakhtunkhwa.

O/C

Directorate of
Social Welfare, K.P.

No. 34045

Date: 18/5/18

ATTESTED



Annex B

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
& WOMEN EMPOWERMENT DEPARTMENT**

Dated Peshawar, the 29th October, 2020

NOTIFICATION:

No: SO-II(SWD)/II-209/2020/3584-90 On recommendations of Departmental Promotion Committee, the competent authority is pleased to promote Mr. Hamid, Field Officer (BS-16) against the vacant post of Social Welfare Officer (BS-17) Directorate of Social Welfare, Special Education & Women Empowerment on regular basis with immediate effect:

02. The officer on promotion will remain on probation for a period of one year extendable for another one year in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule 15 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989.

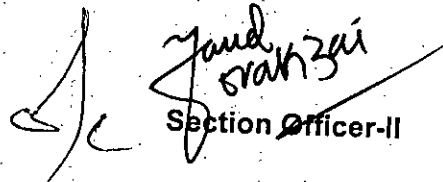
--sd--

**CHIEF SECRETARY
GOVT: OF KHYBER PAKHTUNKHWA**

Endst: of Even No. & Date:-

Copy is forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa
2. Director Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa, **with the request to submit proper posting proposal in this regard.**
3. Deputy Director MIS Cell Social Welfare, Special Education & Women Empowerment Department.
4. PS to Chief Secretary, Khyber Pakhtunkhwa.
5. PS to Secretary Social Welfare, Special Education & Women Empowerment Department Peshawar.
6. Officer concerned.

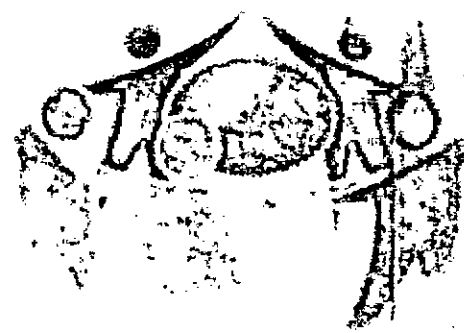

Section Officer-II

Amir D



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF SOCIAL WELFARE, SPECIAL EDUCATION
AND WOMEN EMPOWERMENT

**STRENGTHENING OF SOCIAL WELFARE, SPECIAL EDUCATION &
WOMEN EMPOWERMENT DEPARTMENT**



HABIB KHAN AFRIDI (PMS)
DIRECTOR SOCIAL WELFARE, SPECIAL
EDUCATION & WOMEN EMPOWERMENT

4	<ul style="list-style-type: none"> i. Assistant Director (BS-17) ii. Social Welfare Officer (BS-17) iii. Manager (BS-17) iv. Administrative Officer (BS-17) v. Rehabilitation Officer (BS-17) vi. Superintendents (BS-17) 	At least Second Class Master's Degree in Social Sciences or equivalent qualification from a recognized University.	21-35 years	<p>promotion.</p> <p>(a) 5% by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Social Case Workers (BS-16) and Office Superintendents (BS-17) with at least five years' service as such; and</p> <p>(b) 95% by initial recruitment.</p> <p>Note: A joint seniority list of Social Case Workers (BS-16) and Office Superintendents (BS-17) shall be maintained for the purpose of promotion</p>
5	Research Officer (BS-17)	At least Second Class Master's Degree in Business or related fields such as planning, marketing and finance, Economics, Social Work, Sociology, Project Management or equivalent qualification from a recognized University.	21-35 years	<p>(a) 25% by promotion, on the basis of seniority – cum- fitness, from amongst the holders of the posts of Field Officer (BS-16) Investigator (BS-16) and Marketing Officer (BS-16) having the requisite qualification</p> <p>(b) 75% by initial recruitment</p>
6	Assistant Director I.T (BS-17)	----	---	<p>By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Computer Operator (BS-16), Computer Instructors (BS-16) and Computer Instructors (Female) (BS-16) with at least five years' service as such;</p> <p>Note: A joint seniority list of Computer Operator (BS-16), Computer Instructors (BS-16) and Computer Instructors (Female) (BS-16) shall be maintained for the purpose of promotion</p>



GOVERNMENT OF THE KHYBER PAKHTUNKHWA
SOCIAL WELFARE, SPECIAL EDUCATION AND WOMEN EMPOWERMENT DEPARTMENT

NOTIFICATION

Peshawar, dated the September, 25th 2019

No: SOII/SWD/II-12/Service Rules/2019-20: 320-52 In pursuance to the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all Notifications issued in this behalf, the Social Welfare, Special Education and Women Empowerment Department Khyber Pakhtunkhwa, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in column 3 to 5 of the Appendix to this Notification, which shall be applicable to all the posts in the strength of Directorate of Social Welfare, Special Education and Women Empowerment Khyber Pakhtunkhwa. (Social Welfare Side) specified in column 2 of the said Appendix:

APPENDIX

S.No:	Nomenclature	Minimum qualification for initial recruitment	Age Limit	Method of Recruitment
1	2	3	4	5
1	Director (BPS-19)	—	—	By transfer of PCS/PMS/PAS Officer of the Provincial Government.
2	Deputy Director (BPS-18)	—	—	By promotion, on the basis of seniority-cum-fitness, from amongst the Social Welfare Officers, Managers, Rehabilitation Officers and Assistant Directors with at least five years service as such. Note: A joint seniority list of Social Welfare Officers, Managers, Rehabilitation Officers and Assistant Directors shall be maintained for the purpose of promotion.
3	Assistant Director (BPS-17)	At least Second Class Master's Degree or equivalent qualification from a recognized University.	21-35 years	(a) Thirty per cent (30 %) by promotion, on the basis of seniority-cum-fitness, from amongst the Superintendent with at least three years service as such and have qualification of graduation from a recognized University; and (b) Seventy per cent (70 %) by Initial recruitment.

ATTESTED

(15)

~~Annex B~~

Annex D-D
New
Rules-2019

[Handwritten signature]

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4	Manager (BPS-17)	At least Second Class Master's Degree in Social Work, Sociology, Anthropology or equivalent qualification from a recognized University.	21-35 years	(a) Ten per cent (10 %) by promotion, on basis of seniority-cum-fitness, from amongst the Administrative Officers with at least three years services as such; and (b) ninety per cent (90 %) by initial recruitment.
5	Rehabilitation Officer (BPS-17)	At least Second Class Master's Degree in Social Work, Sociology, Psychology, Anthropology or equivalent qualification from a recognized University.	21-35 years	By initial recruitment.
6	District Officer Social Welfare (BPS-17)	—	—	By transfer from amongst the officers in BPS-17 of Directorate of Social Welfare, Khyber Pakhtunkhwa, on social welfare side.
7	Social Welfare Officer (BPS-17)	At least Second Class Master's Degree in Social Work, Sociology, Anthropology or equivalent qualification from a recognized University.	21-35 years	(a) Ten per cent (10 %) by promotion, on the basis of seniority-cum-fitness, from amongst the Field Officers with at least five years service as such; and (b) ninety (90) % by initial recruitment.
8	Medical Officer (BPS-17)	—	—	By transfer from Health Department on deputation basis.
9	Psychologist (BPS-17)	—	—	By transfer from Health Department on deputation basis.
10	Superintendent (BPS-17)	—	—	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants and Senior Scale Stenographers with at least five years service as such. Note: A joint seniority list of Assistants and Senior Scale Stenographers shall be maintained for the purpose of promotion.
11	Administrative Officer (BPS-17)	At least Second Class Master's Degree or equivalent qualification from a recognized University.	21-35 years	By initial recruitment.
12	Field Officer (BPS-16)	At least Second Class Master's Degree in Social Work, Sociology or Anthropology or equivalent qualification from a recognized University.	21-35 years	By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Vocational Teachers with at least three years service as such.

ATTESTED

17

40	Naib Qasid (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.
41	Sweeper (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.
42	Chowkidar (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.
43	Mali (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.
44	Security Guard (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.
45	Cook (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.
46	Attendant (BPS-03)	Preferably literate.	18-40 years	By initial recruitment.


—Sd—

Secretary to Government of Khyber Pakhtunkhwa
Social Welfare, Special Education &
Women Empowerment Department

Ends: of Even No & Date:

Copy forwarded for information and further necessary action to the:

1. Secretary to Government of Khyber Pakhtunkhwa, Establishment & Administration, Finance and Law Departments.
2. Secretary Khyber Pakhtunkhwa Public Service Commission Peshawar.
3. Accountant General Khyber Pakhtunkhwa Peshawar.
4. Director Social Welfare, Special Education & Women Empowerment Khyber Pakhtunkhwa.
5. Manager Government Printing Press Khyber Pakhtunkhwa, Peshawar for publication in the office gazette.
6. All District Account Officer Khyber Pakhtunkhwa.
7. PS to Governor Khyber Pakhtunkhwa Peshawar.
8. PS to Chief Minister Khyber Pakhtunkhwa, Peshawar.
9. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
10. PS to Secretary Social Welfare, Special Education & Women Empowerment Department Khyber Pakhtunkhwa Peshawar.


4/12/2019


Section Officer-II

Amer E 68
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 666 / 2020

Mr. Jamal Shah, Social Case Worker (BPS-16),
O/O Centre for MRP, Dir Upper.

Diary No. 365
Dated 15/1/2020

..... APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 2- The Secretary (Finance) Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 3- The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Secretary (Social Welfare) Special Education & Woman Empowerment Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 5- The Director (Social Welfare), Directorate of Social Welfare, Special Education & Women Empowerment, Jamrud Road, Peshawar.

..... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED SERVICE RULES NOTIFIED ON 25.9.2019 WHEREBY THE PROMTION QUOTA RESREVED FOR THE CADRE OF THE APPELLANT TO THE POST OF MANAGER AND SOCIAL WELFARE OFFICER (BPS-17) HAS BEEN WASHED AWAY AND AGAINST THE IMPUGNED APELLATE ORDER DATED 16.12.2019 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGERTTED ON NO GOOD GROUNDS

Filed to-day
Registrar
15/01/2020

PRAYER: That on acceptance of this appeal the impugned Service Notified on 25.9.2019 may be set aside and the respondents may kindly be directed to restore/revive the old service rules Notified on 21.9.2006 amended on 29.11.2011. That the respondents may further please be directed that not to disturbed the quota reserved for the cadre of the appellant to the post of Manager & Social Welfare Officer (BPS-17). Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Re-submitted to do and filed.

Registrar
15/01/2020

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No. 666/2020

20.07.2020

Mr. Noor Muhammad Khattak, Advocate for appellant and appellant himself are present. Mr. Kabirullah Khattak, Learned Additional AG for the respondents is also present. Written reply/comments on behalf of respondents not submitted. Learned Additional AG requests for further time to submit the requisite reply. May do so on next date of hearing. Adjourned to 28.07.2020 for submission of written reply/comments.

(MUHAMMAD JAMAL KHAN)
MEMBER

28.07.2020

Counsel for the appellant and Mr. Muhammad Riaz Khan Painsdakhel, Asstt. AG alongwith Nabi Gul, Superintendent for the respondents present.

Representative of the respondents states that although a meeting of DPC regarding promotion to the post of Social Welfare Officer (BPS-17) has been held on 10.07.2020, the recommendations thereof have not been materialized. At the same time he requests for adjournment for submission of reply/comments on behalf of respondents.

The record shows that previously the respondents have been extended such concession on a number of occasions, including a last chance on 30.06.2020. The request of respondents is, therefore, acceded to subject to payment of cost of Rs. 2000/-. Adjourned to 12.08.2020. In the meanwhile, the respondents shall not finalize/materialize the recommendations made by the DPC in its meeting held on 10.07.2020.

Certified to be true copy

Signature
Khyber Pakhtunkhwa
Social Tribunal
Peshawar

Cost of Rs. 2000/-
10/-
4/-
Total 14/-

800
28-7-2020
Signature
Chairman
28-7-2020



ESTA CODE

**ESTABLISHMENT CODE KHYBER PAKHTUNKHWA
(REVISED EDITION) 2011**

**A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS
RELATING TO THE TERMS AND CONDITIONS
OF PROVINCIAL CIVIL SERVANTS**

**COMPILED BY;
(O&M) SECTION
ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

⇒ VI.

Date of Promotion:

Promotion will always be notified with immediate effect.

VII.

Notional Promotion:

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

VIII.

Promotion of Civil Servants who are awarded minor penalties.

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

IX.

Promotion in case of pending investigations by NAB:

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

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

WORKING PAPER

SUBJECT: PROMOTION OF SOCIAL CASE WORKER / FIELD OFFICER / SUPERVISOR (BPS-16) TO THE POST OF SOCIAL WELFARE OFFICER, SUPRINTENDENT / MANAGER BPS-17.

According to the rules the incumbent(s) of the post of Social Case Worker/ Field Officer/Supervisor BPS-16 with five (5) year of service as such are to be promoted to any of the following three posts:

- Social Welfare Officer BPS-17
- Superintendent BPS-17 Darulkafala/Darulaman/Welfare Home &
- Manager BPS-17 MR & PHC

1-Social Welfare Officer BPS-17

There are 44 sanctioned posts of Social Welfare Officers (BPS-17) in Social Welfare, Special Education and Women Empowerment Khyber Pakhtunkhwa (Annexure-A). In terms of S.No. 3, Column-7 of the Notification No. SOII (SW) II-12/99 dated 21.09.2006 (Annexure-B), the following method has been prescribed for recruitment of Social Welfare Officers (BPS-17):

- (a) "Twenty percent by promotion, on the basis of seniority-cum-fitness from amongst the Field Officers / Supervisors and Social Case Workers with five year service as such; and
(b) Eighty percent by Initial recruitment".

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Table-A

Sanctioned strength of SWOs	Total filled at present	Vacant post	20% promotion quota	Filled through promotion	remaining promotion quota	Remarks
44	41	4	8.8 say 9	5	4	

2- Superintendent BPS-17 Darulkafala/Darulaman/Welfare Home/ Manager BPS-17 MR & PHC/

There are 17 sanctioned posts of Superintendent (BPS-17) Welfare Home/Darulkafala/Darulaman and 10 sanctioned posts of Manager/Principal Mentally Retarded & Physically Handicapped Children in Social Welfare, Special Education and Women Empowerment Khyber Pakhtunkhwa (Annexure-C). Thus, on the whole, total number of the sanctioned post of above mentioned Superintendent and Manager/Principal is 27 for which the prescribed method of recruitment in terms of S. No. (iv) Column-5 of the Notification No. SO-II (SWD)/II-12/2011/2823-34 dated 29.11.2011 (Annexure-D), is as following:

a) Fifty percent by initial recruitment.

b) Fifty percent by promotion from amongst the holder of the post of Field Officer/Supervisor and Social Case Worker (BPS-16) with at least 5 year service as such.

Table-B

S.No	Nomenclature & BPS- of the Post	Sanctioned Strength	Total Filled	Total Vacant	50% Promotion Quota Share	No.of Posts filled Through Promotion	No.of Posts to be filled Through Promotion
1	Superintendent BPS-17	17	5	12	8.5 say 9	02	07
2	Manager/Principal BPS-17	10	2	8	05	Nil	05
	Total	27	7	20	14	02	12

Thus as per Rules a total of 14 out of 27 posts of Superintendent/ Manager BPS-17 are to be filled through promotion from amongst the holder of the post of Social Case Worker/Supervisor/Field Officer (BPS-16) in which only 2 have been filled thus so far and 12 more are to be filled as such.

Table -C below summarizes Table-A & B.

Table-C

S.No	Nomenclature & BPS- of the Post	Sanctioned Strength	Share of Promotion Quota	No.of Posts filled Through Promotion	Remaining promotion quota	Presently vacant post
1	Social Welfare Officer BPS-17	44	8.8 say 9	05	04	4
2	Superintendent BPS-17	17	8.5 say 9	02	07	12
3	Manager/Principal BPS-17	10	05	Nil	05	8
	Total	71	23	07	16	24



ATTESTED

(24)

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There are presently 07 officers in the seniority list of Social Case Worker / Field Officer / Supervisor (Annexure-E). Their particulars are as under:

S.No	Name of Officer	Date of 1 st entry into govt. service	Length of service upto 31.10.2018			Remarks
			Year	Month	Day	
1	Mr. Faisal Khan	1.7.2011	07	04	00	The officer(s) fulfill the eligibility criteria for promotion.
2	Mr. Hamid	3.7.2013	05	03	28	
3	Mr. Sabir Khan	3.7.2013	05	03	28	
4	Mr. Sareer Khan	4.7.2013	05	03	27	
5	Mr. Alamgir	4.7.2013	05	03	27	
6	Mr. Jamal Shah	25.11.2016	01	11	07	The officers Do not fulfill the Criteria.
7	Mst: Kiran Irshad	1.6.2017	01	05	00	


As is, evident, apart from officers at S.No.6 & 7 the rest of the officers from S.No1 to S.No 5 possess the prescribed length of service, required for promotion to the post of Social Welfare Officer & Superintendent/ Manager (BPS-17) and thus are eligible to be promoted as such on regular basis.

It is certified that the officers included in the panel of promotion:

- Are holding the present post on regular basis and none of them is serving on adhoc basis.
- Have the prescribed maximum length of qualifying service/experience as required for promotion on regular basis under the rules except the officers at S.No 06 & 07.
- Neither any anti-corruption / departmental enquiry is pending against the above mentioned officers nor was any penalty imposed against them during their entire service period.
- The vacant posts of Social Welfare Officer & Superintendent/ Manager (BPS-17) lying vacant are on regular budget side.
- No officer included in the panel of promotion was granted extra ordinary leave (leave without pay).
- The PERs / Synopsis of PERs in respect of the above mentioned officers are placed on board at (Annexure-F).
- Willingness for promotion based on priority in r/o officers included in the panel for promotion is (are) placed as (Annexure-G).

The departmental promotion committee is requested to determine the suitability of the officers for promotion as Social Welfare Officer & Superintendent/ Manager (BPS-17) on regular basis.


ATTESTED


Assistant Director
(Establishment)



39

Annex H

Government of Khyber Pakhtunkhwa
Directorate of Social Welfare, Special Education and
Women Empowerment Jamrud Road Peshawar.



Dated Peshawar the 19/03/2019

ORDER.

No.E-17/17/DSW/Vol-6/ 6942-44 . In pursuance of Section 8 (1) of Khyber Pakhtunkhwa Civil servants Act, 1973 read with Sub- Rule (b) & (4) of Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfers) Rules 1989 added Vide Notification No.SOR -VI(E&AD)1-3/2008 dated 19-11-2009, Tentative seniority list of Social Case Worker/ Field Officer BPS-16, Social Welfare, Special Education & Women Empowerment Department, Khyber Pakhtunkhwa as stood on 31.12.2018.

S. #	Name	F/Name	Qualification	Domicile	Date of Birth	Date of 1 st appointment	Date of Prest: appoint:	Place of present posting	Remarks
1	Faisal Khan	Aurangzeb	M.A (Anthrop:)	Charsadda	20.4.1982	1.7.2011	1.7.2011	VHC Charsadda	
2	Hamid	Khair Gul	M.A (Socio:)	Khyher Agency	13.12.1984	3.7.2013	3.7.2013	DSW	
3	Sobir Khan	Haider Gul	M.A (Anthrop:)	Malakand Agency	15.3.1984	3.7.2013	3.7.2013	MRRPH Mansehra	
4	Sareer Khan	Khan Rehman	M.A (Socio:)	Mohmand Agency	25.5.1980	4.7.2013	4.7.2013	Secretariat SW, SE & WE KPK	
5	Alamgir	Amin Khan	M.A (Socio:)	Swabi	3.3.1986	4.7.2013	4.7.2013	DO (SW) Swabi.	
6	Nisar Ahmad	Haji Badshah Muhammad	B.A Honors (Sociology)	Dir Lower	03.02.1984	22.11.2016	22.11.2016	GSDC Dir Lower	
7	Muhammad Ibrahim	Said Farosh	M.A (Socio:)	Dir Lower	12.04.1986	25.11.2016	25.11.2016	GSDC Swabi	
8	Malik Jamal Shah Yousafzai	Shahab Ud Din	M.A S. Work	Dir Lower	12.04.1986	25.11.2016	25.11.2016	DSW	
9	Mst: Kiran Irshad	Irshad Hussain	M.Sc (Anthro:)	Haripur	02.04.1987	25.11.2016	25.11.2016	GSDC Haripur	
					6.9.1988	1.6.2017	1.6.2017		

Handover to Mr. Hamid section of DQ 19/3/19

1. Section Officer (G) SW, SE & W.E Department, Khyber Pakhtunkhwa.
2. Assistant Director (Admin), Directorate of SW, SE & WE Department Khyber Pakhtunkhwa.
3. District Officer, Social Welfare, Charsadda, Dir Lower, Haripur, Mansehra & Swabi.

The Officers at Sr. # 1 to 3 above are requested to circulate the above tentative seniority list amongst the incumbents and submit any objection/ correction within 15 days of the receipt of this letter.

Assistant Director Establishment

Assistant Director Establishment

ATTESTED

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**BEFORE THE CHAIRMAN KP SERVICE TRIBUNAL,
PESHAWAR**

S.A No. 1288/20

HAMID

VERSUS

GOVERNMENT OF K P K & Others

REJOINDER ON BEHALF OF APPELLANT

RESPECTFULLY SHEWETH:

REPLY OF PRELIMINARY OBJECTIONS:

Para-1 to 9 of the preliminary objections of the comments are baseless hence expressly denied being having no legal footing.

REPLY ON FACTS:

Para-1 & 2 of the comments need no reply.

Para-3 of the comments is incorrect, as per rules mentioned in the appeal. Eligibility criteria for promotion was seniority-cum-fitness with at least five years service, and the appellant was eligible being fulfil the criteria and also moved application for promotion But the respondents intentionally delayed the matter.

Para-4 is incorrect, baseless hence denied, In fact the application was not properly replied and the matter was intentionally delayed.

Para- 5 & 6 of comments is incorrect, & baseless In fact application of the appellant was not properly replied, the respondents, no doubt prepared the working paper on 16/11/2018 but the appellant was promoted on 29/10/2020 after two years of preparation of the working paper. For such a huge delay, the appellant suffered a lot due to non-serious attitude of the respondents.

Para-7 is incorrect, baseless Respondents accepted the delay at their own part. The reason showed by the respondents are much later and the appellant become eligible for promotion in 2018. This is the reason that the respondents prepared working

paper but intentionally and deliberately delayed the issue therefore, failure is at the part of the respondents.

Para-8 expressly denied. The respondents shows gross violation of the law at their own part. How could it be possible that working paper for the promotion was prepared on the tentative Seniority list. Once the tentative seniority list is not objectionable the respondents are duty bound to issue a final seniority list and prepared working paper for promotion, and placed it before DPC/PSB. But the respondents admittedly delay the whole process without any solid reason.

Para-9 Is correct that the appellant has been promoted during pendency of instant appeal. But the promotion is given on 29/10/2020 instead of 03/07/2018 when the appellant become eligible.

Para-10 of comments is incorrect hence expressly denied. As per **Easta code** promotion will always be notified with immediate effect but where the delay caused at the part of the respondents, the cost of the respondents should not be bore by the appellant. In this respect Judgment dated: 18/11/2020 titled **Yousaf Ali Vs Govt:** Appeal No. 727/2019 of this Hon'ble Tribunal may be considered as precedent.

Para-11 Reply already given in the paras-8 of the rejoinder.

Para-12 The promotion of the appellant was considered w.e.f 03/07/2018 when the appellant become eligible for promotion and there was also vacant post available with the respondents despite that legal right of the appellant was ignored by the respondent.

Para-13 The grievances of the appellant were still not redressed as claimed for. Therefore, this tribunal is requested to consider the claim and issued direction as the appellant prayed in the appeal.

REPLY ON GROUNDS.

Ground. A to H are incorrect, baseless hence expressly denied. Factual reply of the rejoinder showed gross violation at the part of the respondents which was admitted by the respondents themselves.

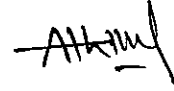
Other ground if any will be raised at the time of arguments with prior permission of the Hon'ble Tribunal.

It is therefore prayed that Instant appeal may be accepted as prayed for.

APPLICANT/APELLANT

Through

Dated: 10-12-21



ATHAR ABBAS
Advocate.

Verification:

It is verified on Oath that the content of this rejoinder are true correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court intentionally.



DEPONENT.

Judgment on behalf of Appellant

(13)



IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No 727 /2019

Khyber Pakhtunkhwa Service Tribunal
Diary No: 847
Dated: 12-6-19

Yousaf Ali Assistant Chief BPS 18 Agriculture & Environment Section
Planning & Development Department Govt of KPK Civil Secretariat
PeshawarAppellant

Versus

1. Government of KP through Chief-Secretary, Peshawar.
 2. Secretary Planning & Development Department Govt of KPK Civil Secretariat Peshawar.
 3. Director Project Planning & Implementation cell Planning & Development Department Govt of KPK Civil Secretariat Peshawar
-Respondents

Service Appeal under Section 4 of the K.P Service Tribunal Act, 1976/against the Notification No. SO/ Esstt:/P&D/001/078/PSB/2019 whereby the Appellant is promoted on the recommendation of the Provincial Selection Board by the competent Authority from PBS-17 to BPS 18 regular w.e.f. January, 24, 2019 instead of the falling of the vacancy dated 17.04 2012(retirement of the predecessor of the Appellant Khalid Ali Sadiq Assistant Chief PP & I Cell P& D Department.

Prayer:-

1. That on acceptance of this Appeal the Notification No . SO/ Esstt/P&D/001/078/PSB/2019 be modified and the Appellant be granted

Filed to day
16
Registrar
12/6/19

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.727/2019



Date of Institution ... 12.06.2019

Date of Decision ... 18.11.2020

Yousaf Ali Assistant Chief BPS-18, Agriculture & Environment Section
Planning & Development Department Govt. of Khyber Pakhtunkhwa,
Peshawar

(Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa, through Chief Secretary and two others.

(Respondents)

Nazir Ahmad
Advocate

For Appellant

Mr. Kabirullah Khattak
Additional Advocate General

For Respondents

Mrs. ROZIAN REHMAN
Mr. ATIQ UR REHMAN WAZIR

MEMBER (J)
MEMBER (A) **ABSENT**

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGEMENT: -

Mr. ATIQ UR REHMAN WAZIR: - Appellant Mr. Yousaf Ali initially appointed as Research Officer (BPS-17) has assailed the impugned order dated 24-01-2019, whereby the appellant is promoted to BPS-18 with immediate effect instead of ante dated promotion with effect from falling of vacancy dated 17-04-2012.

2. Brief facts of the case are that the appellant Yousaf Ali, initially appointed as Research Officer on 18-01-1996 in a project Social Action Plan and later on regularized his services on 19-07-2005. The appellant requested the

respondent several times for promotion to the vacant post of Assistant Chief (BSP-18), but was not promoted due to non-availability of service rules; hence, he approached Peshawar High Court through Writ Petition No 502/2014, for his promotion as per rules. The respondents in the light of court orders prepared service rules and promoted the appellant to the post of Assistant Chief (BPS-18) on 24-01-2019 with immediate effect. That aggrieved by the order, the appellant preferred departmental appeal for ante dated promotion, but of no avail, hence the instant service appeal with prayers that the impugned order dated 24-01-2019 be modified and the appellant be granted ante date promotion with effect from the falling of the vacancy dated 17-04-2012, when he was eligible for promotion to that post.

3. Written reply/comments were submitted by respondents.

4. Arguments heard and record perused.


5. Learned counsel for the appellant contended that the appellant was appointed as Research Officer (BPS-17) on 18-01-1996 in a project titled Social Action Plan. His services along others regularized w.e.f. 01-07-2005. For the purpose 35 posts were created, to establish Provincial Planning Cell (hereinafter referred as the cell) in P & D Department. That after regularization of their services, the appellant as well as other employees of the Cell had every right to be promoted to the next grade as per rules based on seniority cum fitness basis for non-selection posts, as was case of the appellant. That during the course, a post of Assistant Chief (BPS-18) fell vacant on 17-04-2012 due to retirement of the incumbent. The appellant several times requested the respondents for his promotion against the vacant post, but in vain and as is evident from Para 3 of the comments of respondents that case of the appellant was processed time and again but could not materialize due to absence of service rules, which means that the appellant was fit for promotion at that particular time, but was deprived of his rightful claim of promotion due to absence of rules, which was not his fault. The learned counsel

ATTESTED

[Signature]
 CHAIRMAN
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

referred to Section 9 of KP Civil Servant (Appointment, promotion & Transfer) Rules, 1989, under which the appellant was posted against the said vacant post of Assistant Chief (BPS-18) on acting charge basis, whereas relevant Para of the rule explicitly provides that an officer who is otherwise eligible for promotion be posted on acting charge basis to that particular post. Since the appellant was eligible for promotion at that particular time, hence was posted on acting charge basis. That it took 23 years for the appellant to promote to next grade, merely due to absence of rules. It however, was responsibility of the respondent to frame rules parallel to creation of the Planning Cell, which they did with snail's pace after thirteen years and promoted the appellant with immediate effect, inspite of the fact that his case was several times processed for promotion by the respondents, but deferred every time due to absence of rules, but nobody bothered to frame such rules. That an officer, Mr. Asad Ali Khan from the same cadre was initially regularized in BPS-18 from 01-07-2005 was later on promoted to BPS-19 on 27-02-2012, but in the case of appellant, the respondents always put off request of the appellant for want of rules. The learned counsel argued that question arises as to how Mr. Asad Ali was promoted, when service rules were not available and for which there is no answer with the respondents. This was a classical example of discrimination with the appellant. Reliance: CA No 605/2015. That with no alternate remedy available, the appellant approached Peshawar High Court through Writ Petition No 502/2014, review petition, contempt of court petition and even implementation petition and finally after lengthy litigation, the court ordered in favor of the appellant and it was on orders of the court that Service Rules were framed on 22-02-2018 and based on these rules, the appellant was promoted to BPS-18 on 24-01-2019 but with immediate effect. The learned counsel argued that the appellant deserve to be promoted from the date when the vacancy occurred on 17-04-2012, as he has requested for such promotion from the day the post fell vacant. Moreover, he was the senior most amongst his colleagues as well as having the required length of service with no adverse entries in his performance evaluation report, rather his

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 Notary Public
 Peshawar

efficiency was up-to the mark, so was posted against such post on acting charge basis. The learned counsel further argued that respondents also admit to the fact that his case for promotion was processed several times but was put off due to absence of service rules, which means that he was eligible for promotion at that particular time but was refused promotion due to a reason, which was beyond control of the appellant and the appellant shall not suffer at the cost of slackness on part of respondents, hence he has every right for promotion from the date the vacancy occurred. Reliance: 1998 S C M R 88. The learned counsel further argued that the appellant was qualified to be promoted, where he was put on such post on acting charge basis only because requisite exercise of allowing regular promotion to such post was being delayed under the pretext of absence of rules and where on availability of rules, he was subsequently found fit for such promotion, then he is also entitled to ante date promotion as well as all consequential benefits. The apex court has held that in such circumstances the civil servant shall be granted antedate promotion. Reliance: 2006 S C M R 1938. That propriety demands that the appellant be compensated as he did suffer and did a long struggle for getting only one-step promotion after more than 23 years service. The learned counsel prayed that the impugned order dated 24-01-2019 be modified and the appellant be granted ante dated promotion with effect from the falling of vacancy dated 17-04-2012.

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[Signature]
 Director
 Service Tribunal,
 Peshawar

6. Conversely the learned Addl; AG appeared on behalf of official respondents contended that as per verdict of the Honorable High Court, the respondents have already and practically conceded the claim of the appellant and framed the required rules as well as promoted the appellant and hence his case disposed of accordingly. That the appellant was promoted to next grade with immediate effect as per promotion policy 2009 and not with retrospective effect, therefore the notification dated ²⁴42-01-2019 is in accordance with law and service rules. That availability of post is not the only criteria for promotion to the next

grade; rather other factors like seniority, competence, antecedents etc are also necessary. That promotion is not earned automatically, but under an order of the competent authority to be passed after consideration of comparative suitability and the entitlement of incumbents. The learned Addl; AG further explained that the appellant was posted on acting charge basis against the post of assistant chief, which does not confer any right upon the appellant to be promoted with retrospective effect. Reliance: SA No 1693/2011, CA 16/2020 and SA 935/2015. On a question, the learned Addl; AG explained that the case of appellant was several times processed but could not materialize due to absence of rules. Regarding framing of rules, the learned Addl; AG submitted that the issue of framing rules for the Cell delayed due to some legal complications. On the question of promotion of Asad Ali Khan, the learned Addl; AG could not satisfy the court, as to how promotion was made through an executive order. The learned Addl; AG prayed that each and every case has its own merits and plea of the appellant for antedated promotion is incorrect, hence may be filed.

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W
 J. J. J.
 JUDGE
 Service Tribunal
 Peshawar

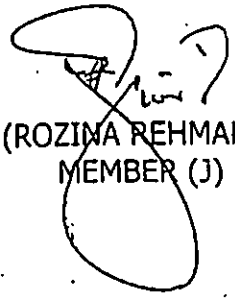
A careful perusal of the entire record would reveal that the appellant after prolong litigation and investing 25 years of his service only succeeded in being promoted to grade 18 in the year 2019 with immediate effect and that too on the directions of Honorable High Court. His contention that he had every right to be promoted from the date of falling of vacancy i.e. 17-04-2012 and for which he was fit in all respect, but was deprived of his legitimate right of promotion at the relevant time also hold force. We are conscious of the fact that contention of the appellant to the effect that preparation of service rules were beyond his control and it was responsibility of the respondents to do such well in time. Objection of the learned Addl; AG about seniority of the appellant was inquired and found that appellant was the senior most amongst three incumbents at that time, hence appellant was the only candidate for promotion, not infringing rights of others. Moreover, as is evident, from the record that appellant was the only candidate

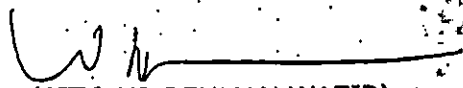
contesting the case of his promotion, when the post fell vacant in 2012. Moreover he was put on the same post on officiating or acting charge basis as requisite exercise of allowing regular promotion was barred by non-availability of service rules, which was not fault of the appellant and which shows that he was otherwise fit for promotion. It is also worth to note that the appellant was subsequently found fit for such promotion after formulation of the service rules at a belated stage. It is a well-settled legal proposition that whenever the promotion of a civil servant is delayed for want of certain deficiencies or any other reason not attributable to the appellant; he cannot be deprived of the promotion from the date, when he became eligible for the same. The respondents utterly failed to come up with any solid justification for deliberate/intentional delay in preparation of service rules as well as failed to justify the promotion case of Mr. Asad Ali Khan of the same cadre in absence of rules. Record reveals that Asad Ali Khan was elevated through an executive order against the said position, which he was holding in the capacity of own pay & scale, whereas the case of appellant regretted again and again for want of rules. Representative of the respondents affirmed the availability of post, seniority of the appellant and his posting against the subject post on acting charge basis at that particular time. Reliance placed by the learned counsel for the appellant in cases i.e. 1998 S C M R 88 and 2006 S C M R 1938 are similar to the case of the appellant, which have spelled out a proposition that on his regular promotion to such post, the appellant would be deemed to have been promoted to the same from the date the vacancy occurred.

8. The above-mentioned situation shows that the appellant would have earned promotion at that time, if service rules were available. The appellant shall not suffer at the cost of delay on part of respondents in preparation of service rules, for which he is not responsible. In addition, he was discriminated in terms of elevation of his colleague through an executive order. The appellant contested his case for years against the apathetic approach of the respondents towards the issue, which

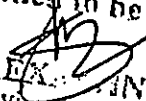
subjected the appellant to suffer for longer; hence, the instant appeal is accepted as prayed for. No order as to costs. File be consigned to the record room.

ANNOUNCED
18.11.2020


(ROZINA REHMAN)
MEMBER (J)


(ATIQ UR REHMAN WAZIR)
MEMBER (E)

Date of Presentation of Application 26/11/2020
Number of Words 28700
Copying Fee 30/-
Argent 4/-
Total 34/-
Name of Applicant _____
Date of Completion of Copy 26/11/2020
Date of Delivery of Copy 26/11/2020

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar