

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

CM (12)2 CPC No. 221/2023

In

Service Appeal No. 148/2019

Decided on 14/04/2022.

Mr. Babar Hayat (Senior Scale Stenographer)
Deputy Commissioner Office Swabi

VS

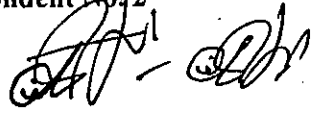
- 1- Mr. Ihsan Ullah, Senior Scale Stenographer (ACB)
- 2- Muhammad Ibrahim, Private Secretary (ACB)
- 3- The Commissioner Mardan Division Mardan
- 4- The Senior Member, Board of Revenue & Estate Department Government of Khyber Pakhtunkhwa Peshawar

INDEX

S. No	Description	Annexure	Page
01.	Reply/Comments on behalf of Respondent No. 2		01 - 03
02.	Appointment Orders of Respondents No. 1 & 2	A	04 - 05
03.	Copy of Notification dated 02/07/2010	B	06 - 10
04.	Seniority list	C	11
05.	Appointment Order of petitioner dated 16/07/2014	D	12 - 13
06.	BOR, Rules 2015	E	14 - 18
07.	Joint Application for promotion	F	19
08.	Notification of promotion in respect of respondents No. 2	G	20
09.	Notification of promotion in respect of respondents No. 1	H	21
10.	Notification of promotion in respect of respondents No. 2 on regular basis	I	22
11.	Judgment of Khyber Pakhtunkhwa Services Tribunal Peshawar	J	23 - 26
12.	SMBR Order	K	27
13.	Service appeal of Respondent No. 1	L	28 - 31
14.	Promotion order of Respondent No. 1 as Senior Scale Stenographer (BPS-16)	M	32
15.	Application to Supreme Court of Pakistan for early hearing	N	33
16.	Execution petition in Service Tribunal	O	34 - 35
17.	Order of Service Tribunal	P	36
18.	Letter to BOR for implementation	Q	37
19.	BOR reply	R	38
20.	Conditionally/provisionally regularized Office Order in respect of Respondent No. 1	S	39

Dated:- 26/09/2023

Respondent No. 2


Muhammad Ibrahim
Private Secretary
Commissioner Office Mardan

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

CM: (9)2 CPC No: 221/2023
IN
Service Appeal NO. 148/2019
Decided on: 14/04/2022

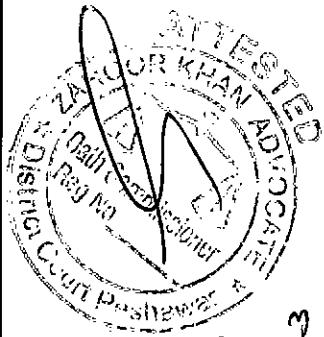
Mr. Babar Hayat (Senior Scale Stenographer)
Deputy Commissioner Office, Swabi

VERSUS

1. Mr. Ihsan Ullah, Senior Scale Stenographer (ACB)
2. Muhammad Ibrahim, Private Secretary (ACB)
3. The Commissioner, Mardan Division, Mardan
4. The Senior Member, Board of Revenue & Estate Department, Govt. of Khyber Pakhtunkhwa, Peshawar.

AFFIDAVIT

I, *Muhammad Ibrahim, Private Secretary (ACB)*, do hereby solemnly affirm and declare on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off.



27/10/2023

Attested
[Signature]

Respondent No. 2

[Signature]

CNIC No: 16101-1103692-3

Before Khyber Pakhtunkhwa Service Tribunal Peshawar

CM (12)2 CPC No. ___/2023 in Service Appeal 148/2019
Mr. Baber Hayat (Senior Scale Stenographer)
Deputy Commissioner Office Swabi

Khyber Pakhtunkhwa
Service Tribunal

Case No. 8641
Dated 27-10-23

(Petitioner)

Versus

- 1- Ihsan Ullah, Senior Scale Stenographer (ACB)
- 2- Muhammad Ibrahim, Private Secretary (ACB)
- 3- The Commissioner Mardan Division, Mardan.
- 4- The Senior Member, Board of Revenue & Estate Department Khyber Pakhtunkhwa Peshawar.

(Respondents)

Reply/Parawise Comments on behalf of Respondent No. 02

Preliminary Objects:

- 1- As Appellant has got not cause of action.
- 2- The appeal is not maintainable in its present form.
- 3- The appellant has not come with clean hand to this honorable court.
- 4- The appellant has no locus standi to file the appeal.
- 5- This honorable tribunal has no justification to entertain the instant appeal.

Ground of Facts:

Ground of Facts:

- A- That the Respondent no. 01 & 02 were appointed in the office of Commissioner Mardan Division on 30th June, 2009 as Junior Scale Stenographers **(F-A)**. Their Joint Final Seniority list of Junior Scale Stenographers of the offices of Commissioner Mardan Division, District Coordination Mardan & Swabi were issued in 2010 till 2014 as per Notification of Board of Revenue & Estate Department Khyber Pakhtunkhwa vide no. 13045/Admn:II/1/296/Amendment dated 02nd July, 2010 **(F-B)** wherein Respondent no. 01 & 02 were placed at Serial number 08 & 09 **(F-C)** and the name of the Petition was not included in said Seniorities as he was appointed in the Office of Deputy Commissioner Swabi on 16/07/2014 **(F-D)**
- B- That the Board of Revenue & Estate Department Khyber vide Notification dated 23/01/2015, separate service structure rules of the employees of the Commissioner Offices and Deputy Commissioner offices were framed under rule-3(2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules-1989 **(F-E)** and under the new rules seniorities of employees of offices of Commissioner and Deputy Commissioner were divided in two sets i.e. Commissioner office & Deputy Commissioner office.
- C- That the Respondent no. 01-02 and Muhammad Ishtiaq (Computer Operator) of this office submitted written application to worthy Commissioner Mardan Division **(F-F)** for the purpose of promotion to the vacant posts of Senior Scale Stenographers BPS-16 according to new rules of Board of Revenue Khyber Pakhtunkhwa wherein 60% quota reserved for the promotion of Junior Scale Stenographer and 40% quota reserved for Computer Operator. Consequently promotions made as per the said rules and vide office order no. Estt:II /DPS/28593-97 dated 22/12/2015.
- D- That on 18/10/2017 the Respondent No.01 & 02 submitted an application for their promotion to the vacant post of Private Secretary on (ACB) and fill the vacant post become of.

The request of the Respondent No. 01 was processed and Departmental Promotion Committee Meeting was held under the chairmanship of Respondent No. 03 & 04 consequently, on the recommendation of the Departmental Promotion Committee, Respondent No. 02 was promoted to the post of Private Secretary on Acting Charge Basis from the post of Senior Scale Stenographer on dated 08/05/2018 **(F-G)** and Departmental Promotion Committee filled the new become post of Senior Scale Stenographer from Respondent no. 01 on action charge basis dated 19/04/2018 **(F-H)**. Later the service of Respondent No. 2 has been regularized on the recommendation of Departmental Selection Committee Meeting vide notification **(F-I)** and Respondent No. 01 has been regularized on the direction of August Service Tribunal Khyber Pakhtunkhwa **(F-J)**

E- That on 06/11/2018, the Respondent No. 01 submitted through proper channel appeal to Senior Member, Board of Revenue & Estate Department Khyber Pakhtunkhwa wherein the Respondent No. 01 challenged the seniority of the Respondent No. 02 from the year 2010 however, the Respondent No. 04 disposed off the appeal of the Respondent No. 01 with the remarks that **"the instant Departmental Appeal is badly time barred and having no legal ground hence, dismissed. (F-K)"**

F- That on 30/01/2019, the Respondent No. 01 submitted an appeal before the August Service Tribunal Khyber Pakhtunkhwa Peshawar vide appeal no. 148/2019 against Respondent no. 02, 03 & 04 **(F-L)** which was processed accordingly however, during the course of arguments of the learned counsel, Respondent No. 01 submitted an application that the Respondent No. 01 would be satisfied, if his promotion as Senior Scale Stenographer (BPS-16) on acting charge basis is regularized with effect from 19/04/2018 consequently, the August Service Tribunal of Khyber Pakhtunkhwa considered his application and passed judgment on dated 14/04/2022 that the Respondent No. 01 is entitled for promotion as Senior Scale Stenographer on regular basis on 19/04/2018 and directed to issue corrigendum of notification dated 30/06/2021 considering the Respondent no. 01 as regular promoted to the concerned post with effect from 19/04/2018 with all consequential benefits **(F-M)**

G- That Respondent No. 03 & 04 have been filled a CPLA No. 662-P/2022 in the August Supreme Court of Pakistan against the Judgment of August Service Tribunal of Khyber Pakhtunkhwa dated 14/04/2022, which is still pending however, an application for early hearing has been submitted by the Respondents No. 03 & 04 on dated 12/12/2022 before August Supreme Court of Pakistan **(F-N)**.

That on 16/08/2022 the Respondent No. 01 submitted execution petition no. 513/2022 in Service Appeal no. 148/2019 **(F-O)** which was processed accordingly and on 25/11/2022 the August Service Tribunal Khyber Pakhtunkhwa issued notice to Respondent No. 03 for compliance of Judgment i.e. 14/04/2022 on or before 03/01/2023 **(F-P)** however, Respondent No. 03 asked opinion in the subject matter from the Respondent No. 04 regarding the implementation of the order of August Service Tribunal Khyber Pakhtunkhwa vide letter no. 1740/Court Matter/ACR dated 30/12/2022 **(F-Q)** and the Respondent No. 04 advised to Respondent No. 03 to issue conditionally/provisional regularization notification in-respect of Respondent No. 01 till the outcome of pending CPLA in August Supreme Court of Pakistan **(F-R)**, consequently, Respondent no. 03 issued Conditionally/Provisional Regularization office order on 02/01/2023 **(F-S)** and copy of the same submitted to before Service Tribunal of Khyber Pakhtunkhwa.

Reply to Facts/Grounds:➤ **Needs no reply:**

- **Incorrect:** That the Respondent No. 1 & 02 was appointed in the office of Commissioner Mardan Division in the year 2009 as Junior Scale Stenographers and the Petitioner was appointed in the office of Deputy Commissioner Swabi in the year 2014 as Junior Scale Stenographer.

That in the year 2018, the Respondent No. 01 challenged the Seniority of the Respondent No. 02 of the year 2010 as Junior Scale Stenographer however, during the challenged seniority time i.e. 2010, the petitioner was not the employee of Deputy Commissioner Swabi and nor he was the part of the said Seniority List and in the year 2015 the seniority of the office of petitioner i.e. Deputy Commissioner and Commissioner Office.

Furthermore, during the time of suit by Respondent No. 1, both the incumbents has been jumped to their next stages of promotions i.e Respondent No. 2 was promoted two stages (Senior Scale Stenographers & Private Secretary) and the Respondent no. 1 has been promoted one stage as Senior Scale Stenographers as per their turns and proper conducted Department Promotion Committees Meeting by Respondent No. 03 & 04.

- **Incorrect:** As currently no DPC Meeting is under process or expected.
- **Needs no reply:** As mentioned above that currently no DPC Meeting is under process.

It is therefore, most humbly requested that appeal of the petitioner may be dismissed as Respondent No. 03 & 04 has already been submitted CPLA in August Supreme Court of Pakistan against the Judgment of Service Tribunal Khyber Pakhtunkhwa and advise him to wait till the outcome of the decision of August Supreme Court of Pakistan.

Respondent No. 02



Muhammad Ibrahim

Private Secretary

Commissioner, Mardan Division

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Annexure-A

OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

ORDER

Consequent upon the recommendation of Selection Committee Mr. Muhammad Ibrahim S/o Farhad Khan Mohallah Saad Ullah Khan Koorona Redi Gul Bari Cham Mardan is offered employment against the temporary post of Junior Scale Stenographer (BPS-12) in Commissioner Office on the following terms and conditions.

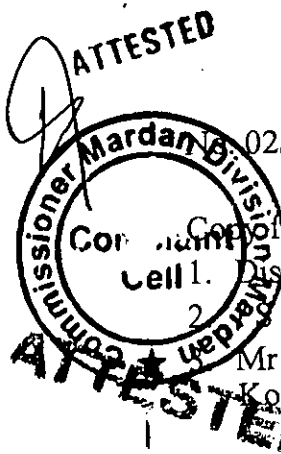
1. His services will be governed by Section-19 of NWFP, Civil Servants Act, 1973 as amended vide NWFP Civil Servants (Amendment Act, 2005). He will be entitled to contributory provident Fund in such manners and at such rates as prescribed.
2. His services will be liable to termination on one-month notice from either side. In case of resignation without notice, his/her two months pay allowances shall be forfeited to the government.
3. He will be governed by such rules and regulations as may be issued from time to time by the government.
4. He will remain on probation for a period of one year extendable to another year in terms of Section-6 of the NWFP, Civil Servants Act, 1973 read with Rule-15 (1) of the NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules 1989. His services can be terminated any time in case his/her performance is found unsatisfactory during probation period. In case of misconduct, he shall be proceed against under the NWFP removal from Service (Special Powers) Ordinance, 2000 and the rules framed by the government from time to time.
5. The appointment offer is subject to verification of his her/academic documents from the concerned Board/university.
6. He shall be bound to accept his adjournment/absorption on any of the department/office in mardan Division as ordered by the Competent authority.

Before joining the post he will have to provide (a) Medical Fitness Certificate from the Medical Superintendent, DHQ Hospital of his/her respective District of Domicile (b) Character Certificate from local Police Station (c) Attested photo copies of academic documents.

Sd

Commissioner Mardan Division
Mardan

Dated Mardan the 29/06/2009



02/01/EA/ACR/ 13/12/

Copy forwarded to:-
District Account Officer Mardan.

to Commissioner Mardan Division Mardan.

Mr. Muhammad Ibrahim S/o Farhad Khan R/o Mohallah Sadullah Khan Koroona Redi Gul Bari Cham Mardan.

Assistant Commissioner (Rev)

For Commissioner Mardan Division

Mardan

OFFICE OF THE

COMMISSIONER MARDAN DIVISION, MARDAN

Annex A

Annex B

ORDER

Consequent upon the recommendation of the Selection Committee
Mohammad Ibrahim s/o Farhad Khan r/o Mohallah Sadullah Khan Korona Redi
Bari Cham Mardan s/o Farhad Khan r/o Mohallah Sadullah Khan Korona Redi
Stenographer (BPS-12) in Commission's office on the following terms and conditions

- 1- His/ services will be governed by Section-19 of the NWFP, Civil Servants Act, 1973 as amended vice NWFP Civil Servants (Amendment Act, 2005). He will be entitled to contributory Provident Fund in such manners and at such rates as prescribed by the government.
- 2- His services will be liable to termination on one-month notice from either side, In case of resignation without notice, his/her two months pay allowances shall be forfeited to the government.
- 3- He will be governed by such rules and regulations as may be issued from time to time by the government.
- 4- He will remain on probation for a period of one year extendable to another year in terms of Section -6 of the NWFP Civil Servants Act, 1973 read with Rule-15 (1) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules 1989. His services can be terminated any time in case his/her performance is found unsatisfactory during probation period. In case of misconduct, he shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance, 2000 and the rules framed by the government from time to time.
- 5- The appointment offer is subject to verification of his/her academic documents from the concerned Board/University.
- 6- He shall be bound to accept his adjustment/absorption on any of the department/offices in Mardan Division as ordered by the Competent Authority.

Before joining the post he will have to provide (a) Medical Fitness Certificate from the Medical Superintendent, DHQ Hospital of his/her respective District of Domicile (b) Character Certificate from local Police Station (c) Attested photo copies of academic documents.

In case the above terms and conditions of appointment are acceptable, he is required to report his/her arrival in the office of the undersigned within seven (07) days of receipt of this letter, otherwise, the appointment would be considered cancelled.

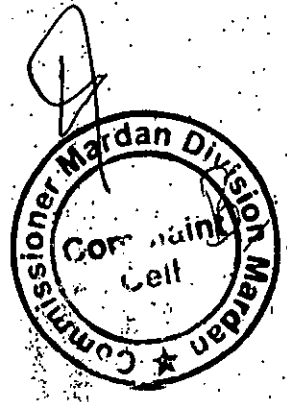
-sd-
Commissioner Mardan Division
Mardan.

Dated Mardan the 06/06/2009

No 02/01/BA/ACR/2009

- Copy forwarded to
- 1- District Accounts Officer Mardan.
 - 2- PS to Commissioner Mardan Division
 - 3- Mr. Mohammad Ibrahim s/o Farhad Khan r/o Mohallah Sadullah Khan Korona Redi Gul Bari Cham Mardan

Assistant to Commissioner (Rev) for Commissioner Mardan Division Mardan.



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OFFICE OF THE

COMMISSIONER MARDAN DIVISION MARDAN

ORDER

Consequent upon the recommendation of Selection Committee Mr. Ihsan Ullah S/o Habib Ur Rehman R/o Village Bahadar Killy Tehsil and P.O Takht Bhai District Mardan is offered employment against the temporary post of Junior Scale Stenographer (BPS-12) in Commissioner Office on the following terms and conditions.

1. His services will be governed by Section-19 of NWFP, Civil Servants Act, 1973 as amended vide NWFP Civil Servants (Amendment Act, 2005). He will be entitled to contributory provident Fund in such manners and at such rates as prescribed.
2. His services will be liable to termination on one-month notice from either side. In case of resignation without notice, his/her two months pay allowances shall be forfeited to the government.
3. He will be governed by such rules and regulations as may be issued from time to time by the government.
4. He will remain on probation for a period of one year extendable to another year in terms of Section-6 of the NWFP, Civil Servants Act, 1973 read with Rule-15 (1) of the NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules 1989. His services can be terminated any time in case his/her performance is found unsatisfactory during probation period. In case of misconduct, he shall be proceed against under the NWFP removal from Service (Special Powers) Ordinance, 2000 and the rules framed by the government from time to time.
5. The appointment offer is subject to verification of his her/academic documents from the concerned Board/university.
6. He shall be bound to accept his adjournment/absorption on any of the department/office in mardan Division as ordered by the Competent authority.

Before joining the post he will have to provide (a) Medical Fitness Certificate from the Medical Superintendent, DHQ Hospital of his/her respective District of Domicile (b) Character Certificate from local Police Station (c) Attested photo copies of academic documents.

Sd

Commissioner Mardan Division
Mardan

Dated Mardan the 29/06/2009

No. 02/01/EA/ACR/ 13/12/

Copy forwarded to:-

1. District Account Officer Mardan.

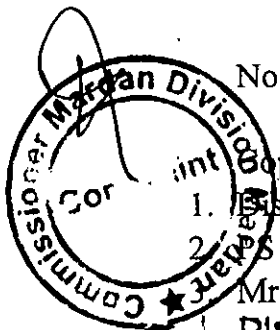
2. To Commissioner Mardan Division Mardan.

Mr. Ihsan Ullah S/o Habib Ur Rehman R/o Village Bahadur Killay Tehsil and District Mardan.

Assistant Commissioner (Rev)

For Commissioner Mardan Division

Mardan



OFF

THE COMMISSIONER MARDAN DIVISION, MARDAN

ORDEI

Consequent upon the recommendation of the Selection Committee Ihsanullah s/o Habib ur Rehman Village Bahadur Kallay Tehsil & P.O. Takht B District Mardan is offered employment against the temporary post of Union Seal Stenographer (BPS-12) in Commissioner's office on the following terms and conditions:

1. His/ services will be governed by Section-19 of the NWFP, Civil Servants Act, 1973 as amended vice NWFP Civil Servants (Amendment Act, 2005). He will be entitled to contributory Provident Fund in such manners and at such rates as prescribed by the government.
2. His services will be liable to termination on one-month notice from either side. In case of resignation without notice, his/her two months pay allowances shall be forfeited to the government.
3. He will be governed by such rules and regulations as may be issued from time to time by the government.
4. He will remain on probation for a period of one year extendable to another year in terms of Section-6 of the NWFP, Civil Servants Act, 1973 read with Rule-15 (1) of the NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules 1989. His services can be terminated any time in case his/her performance is found unsatisfactory during probation period. In case of misconduct, he shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance, 2000 and the rules framed by the government from time to time.
5. The appointment offer is subject to verification of his/her academic documents from the concerned Board/University.
6. He shall be bound to accept his adjustment/absorption on any of the department/offices in Mardan Division as ordered by the Competent Authority.

Before joining the post he will have to provide (a) Medical Fitness Certificate from the Medical Superintendent, DHQ Hospital of his/her respective District of Domicile (b) Character Certificate from local Police Station (c) Attested photo copies of academic documents.

In case the above terms and conditions of appointment are acceptable, he is required to report his/her arrival in the office of the undersigned within seven (07) days of receipt of this letter, otherwise, the appointment would be considered cancelled.

-sd-

Commissioner Mardan Division,
Mardan

No. 02/017/FA/ACR/2009 Dated Mardan the 25/06/2009

Copy forwarded to:-

- 1- District Accounts Officer Mardan.
- 2- PS to Commissioner Mardan Division Mardan.
- 3- Mr. Ihsanullah s/o Habib ur Rehman Village Bahadur Kallay Tehsil & P.O. Takht Bhai District Mardan.



ATTESTED

Assistant to Commissioner (RCV)
for Commissioner Mardan Division
Mardan



KHYBER PAKHTUNKHWA

PUBLISHED BY AUTHORITY

PESHAWAR THURSDAY, 12TH AUGUST, 2010.

GOVERNMENT OF KHYBER PAKHTUNKHWA
REVENUE & ESTATE DEPARTMENT.

NOTIFICATION

Peshawar dated the 2nd July, 2010.

No. 13015/Amendment/296/Amendment. In pursuance of the provisions contained in sub-rule of rule 5 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Revenue & Estate Department in consultation with the Establishment, Law and Finance Departments, Khyber Pakhtunkhwa, hereby direct that in this Department's Notification No. 13015/Amendment/296/Amendment, dated 13th June, 2006, the following amendments shall be made, to-wit:

AMENDMENTS

- 1. In the Preamble, for the word "District" the word "Division" shall be substituted.
- 2. In the Appendix:
 - (i) In the heading, for the word "District", the word "Divisional" shall be substituted;
 - (ii) against serial No. 1, in column No. 5, for the existing entry, the following shall be substituted, namely:

"By promotion on the basis of seniority-cum-fitness from amongst the Assistant (BPS-4) with at least five year service, in the offices of Divisional Commissioners, Additional Commissioners, District Coordination Officers, District Officers (R&E)/Collectors, Executive District Officers (P&P) and Political Agents at Divisional level.
 - (iii) against serial No. 2, in column No. 5, for the existing entry, the following shall be substituted, namely:

"By promotion on the basis of seniority-cum-fitness from against Senior Scale Stenographers (BPS-15) with at least five years as such in the offices of Divisional Commissioners, Additional Commissioners, District Coordination Officers, District Officers (R&E)/Collectors, Executive District Officers (P&P) and Political Agents at Divisional level; and
 - (iv) against serial No. 3, in column No. 5, for the existing entry, the following shall be substituted, namely:

"By promotion on the basis of seniority-cum-fitness from amongst Junior Scale Stenographers (BPS-12) with at least five years service as such in the offices of Divisional Commissioners, Additional Commissioners, District Coordination Officers, District Officers (R&E)/Collectors, Executive District Officers (P&P) and Political Agents at Divisional level and Data Control Assistant (BPS-12) of the office of the District Coordination Officers, District Officers (R&E)/Collectors, Executive District Officers (P&P) Department and Political Agents at Divisional level with at least five years service as such and Data Control Assistant/Commissioners, Additional Commissioners at Divisional level.

ATTESTED
Commissioner, Mardan Divisional

North-West Frontier Province
Published by Authority
PESHAWAR, MONDAY, 18TH JANUARY, 2010

GOVERNMENT OF KHYBER PAKHTUNKHWA
REVENUE & ESTATE DEPARTMENT.

NOTIFICATION

Dated the 2nd July, 2010

No. 13045/Admn:II/I/296/Amendment.- In pursuance of the provisions contained in sub- sub rule (2) and 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Revenue & Estate Department in consultation with the Establishment, Law and Finance Departments, Khyber Pakhtunkhwa, hereby direct that in this department's Notification No. Admn:II/I/296/Amendment, dated 13th June, 2006, the following amendments shall be made, namely:-

AMENDMENTS

1. In the preamble, for the word "District" the word "Division" shall be substituted.
2. In the Appendix:-
 - (i) In the heading, for the word "District", the word "Divisional" shall be substituted:
 - (ii) against serial No. 1, in column No 5, for the existing entry, the following shall be substituted, namely:

"By promotion on the basis of seniority - cum - fitness from amongst the Assistant (BPS-14) with a least five years service, in the office of Divisional Commissioners, Additional Commissioners, District Coordination Officers, District Officers (R&E)/Collector, Executive District Officers (F&P) and Political Agents at Divisional level".
 - (iii) against serial No.2, in column No. 5, for the existing entry, the following shall be substituted, namely:

"By promotion on the basis of seniority - cum - fitness from amongst Senior Scale Stenographers (BPS-15) with at least five years as such in the office of Divisional Commissioner, Additional Commissioners, District Coordination Officers, District Officers (R&E)/Collectors, Executive District Officers (F&P) and Political Agents at Divisional level; and
 - (iv) against serial No.3, in column No.5) for the existing entry, the following shall be substituted, namely:

"By promotion on the basis of seniority - cum - fitness from amongst Junior Scale Stenographers (BPS-12) with at least five years as such in the office of Divisional Commissioner, Additional Commissioners, District Coordination Officers, District Officers (R&E)/Collectors, Executive District Officers (F&P) and Political Agents at Divisional level and Data Control Assistant (BPS-12) of the office of the District Coordination Officers, District Officers (R&E)/Collectors, Executive District Officers (P&P) Department and Political Agents at Divisional level with at least five years service as such and Data Control Assistants / Commissions, Additional Commissioners at Divisional level.

Sd/-xxx
SENIOR MEMBER,
BOARD OF REVENUE, N.W.F.P.

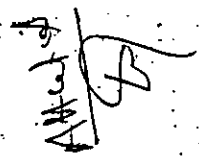
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2010 N.W.F.P GOVERNMENT GAZETTE, EXTRAORDINARY 18TH JANUARY, 2010

DISTRICT MINISTERIAL SERVICE RULES 2001

No.	Nomenclature of Post with Pay Scale	Prescribed qualification	Age	Method of recruitment
1	2	3	4	5
1	Superintendent (BPS-16)			By promotion on the basis of seniority-cum-fitness from amongst holders of the post of Assistant (BPS-14) with at least five years service as such in the offices of D.C.O. District Officer (Revenue & Estate/Collector, and EDO (F&P) Department and Political Agents Offices in the Province.
2	Private Secretary (BPS-16)			By promotion on the basis of seniority-cum-fitness from amongst holders of the post of Senior Scale Stenographer (BPS-15) with at least five years service as such in the offices of D.C.O. O.O. (R&E) and EDO (F&P), Department and Political Agents Offices in the Province.
3	Senior Scale Stenographer (BPS-15)	(i) BA or equivalent qualification from a recognized university; and (ii) A speed of 100 words per minute in shorthand and 40 words per minute in typing in English. (iii) Knowledge of Computer in using MS Word and MS Excel.		(a) By promotion on the basis of seniority-cum-fitness from amongst Stenographers (BS-12) with at least five years service as such; or (b) By annual recruitment if no suitable Stenographer is available for promotion.
4	Junior Scale Stenographer (BPS-12)	(i) 2 nd Class Bachelor Degree or equivalent qualification from a recognized university. (ii) A speed of 50 words per minute in shorthand in English and 35 words per minutes in typing. (iii) Knowledge of Computer in using MS Word and MS Excel.	18-30 years	By annual recruitment.

N.W.F.P. GOVERNMENT GAZETTE, EXTRAORDINARY 18TH JANUARY, 2010

Amended


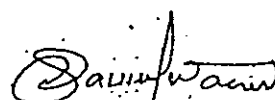
S. No.	Nomenclature of Post with Pay Scale	Prescribed qualification	Age	Method of recruitment
1	2	3	4	5
5	Date Computer Assistant (BPS-12)	(i) 2 nd Class Bachelor Degree with Computer Science Mathematics, Physics, Statistics or Economics as one of the subject and (ii) One year diploma in Computer/Course recognized by the Board of Technical Education.	21-28 years	(i) fifty percent by initial recruitment. (ii) fifty percent by promotion on basis of seniority-cum-fitness from amongst the holders of the posts of Computer Operator/KPO with at least two years service as such.
6	Assistant (BPS-11)	2 nd Class Bachelor Degree or equivalent qualification from a recognized University.	18-30 years	75% by promotion on the basis of seniority-cum-fitness from amongst Senior Clerks with at least five years service as Junior/Senior Clerk and 25% by initial recruitment.
7	Computer Operator/Key Punch Operator (BPS-11)	(i) BA/B.Sc with Statistics/Economics/Mathematics/Physics as one of the subject; and (ii) A minimum speed of 10000 key depression per hour for Punch/Date Entry/certification.	18-25 years	By initial recruitment
8	Senior Clerk (BPS-7)			By promotion on the basis of seniority-cum-fitness from amongst holders of the posts of Junior Clerks having at least 3 years service as such.
9	Junior Clerk (BPS-5)	(i) 2 nd Division in S.S.C of equivalent qualification from a recognized Board. (ii) A speed of 30 words per minute in English typing.	18-30 years	(i) 80% by initial recruitment; and (ii) 20% by promotion from amongst the Qasids and holders of equivalent posts who possess S.S.C 2 nd Division and have at least three years service as such. Provided that where no official is available for promotion the vacancy may be filled in by initial recruitment. Explanation: For the purposes of promotion there shall be maintained a common seniority list of eligible Qasids or holders of other equivalent post with particular reference to the dates of their continuous provided that officials in BPS-2 shall rank senior to officials in BPS-1 irrespective of their length of service.

Name of Post and Scale	Prescribed qualification	Age	Method of recruitment
Driver (BPS-9)	Literate and possessing a valid driving licence with five years experience preference will be given to person who are literate.	25-40 years	By annual recruitment
Man/ Casid/ Chowkidar/Mali/Sweeper (BPS-4)	Literate	21-40 years	By annual recruitment

It is further stated that quota for female candidate be reserved as per Government policy.

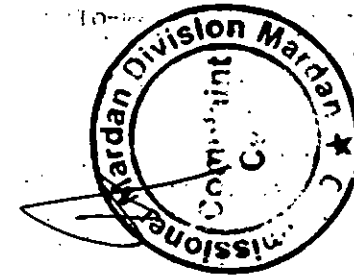
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S. NO	Name of Official	Qualification	Date of Birth	Date of first Appointment	Date of Appointment to the present post	Date of Adjustment	Place of Posting	Remarks
1	Mr. Saib Ali Khan	RA	19-04-1957	28-08-1988	03-09-1988	Continued in service and adjusted in DCO Office on 30-07-2001 vide letter No 326-30/12/DCO	DCO Office, Swabi	With reference to the E & A Deptt. Khyber Pakhtunkhwa letter No SOR-V(E&AD)1-4/2008 dated 11-02-2013
2	Mr. Jan Nabi	BA	30-12-1958	23-08-1988	05-09-1988	-do-	-do-	
3	Mr. Jahanzeb	FA	01-05-1964	26-01-1983	26-01-1983	Adjusted in DCO Mardan on 01-08-2001 vide letter No 1055-57/DCO (M)	EDO (F & P), MDN	
4	Mr. Bahadar Khan	MA	05-01-1963	20-04-1982	20-04-1982	-do-	DCO Office Mdn	
5	Mr. Ihsan Ullah	FA	20-11-1959	18-12-1980	01-04-1994	08-12-2001	-do-	
6	Mr. Habib Ur Rahman	MA	09-04-1967	09-08-1987	09-08-1987	09-10-2002	-do-	
7	Mr. Fazal Nawaz	Matric	27-03-1964	18-01-1992	19-05-2002		DO (R&E) Office Mardan	
8	Mr. Muhammad Ibrahim	BA	01-04-1979	30-06-2009	30-06-2009		Commissioner Office Mdn	
9	Mr. Ihsan Ullah-2	MA	02-03-1984	30-06-2009	30-06-2009		-do-	


 Assistant to Commissioner (Rev)
 Mardan Division Mardan

ATTESTED

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Amir

OFFICE ORDER

Consequent upon the recommendation of the District Selection Committee, the following persons placed on the merit list and on the basis of their prescribed qualifications, Test Interview and scrutiny of their academic credentials, the Competent Authority has been pleased to appoint on the posts as noted against each on the terms and condition appended below: -

I. JUNIOR SCALE STENO GRAPHER BPS-14

1. Mr. Babar Hayat s/o Sikandar Hayat Resident of Alladad Khel, Village Marghuz, Tehsil and District Swabi
2. Mr. Sajjad Ahmad s/o Abdul Hadi Resident of Mohallah Gar, Village Panjpir, Tehsil and District Swabi.

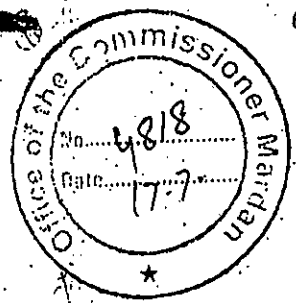
II. COMPUTER OPERATOR BPS - 12

1. Mr. Jamil Khan s/o Shahpur Khan r/o Mohallah Qadar Abad, Village Kalabat, Tehsil Topi District Swabi
2. Mr. Mehran Ahmad s/o Ishfaq r/o Mohallah Khuda Khel, Village Karnal Sher Killi, Tehsil Razar District Swabi.
3. Mr. Khalid Ur Rehman s/o Dawood Khan r/o Mohallah Miangan Tordher, Tehsil Lahor District Swabi.
4. Mr. Attaullah s/o Miggad r/o Mohallah Sultan Ahmad Khel Maneri Payan Swabi.
5. Mr. Muhammad Hammad Zeb s/o Jehanzeb Khan r/o Mohallah Shamsa Khel, Swabi Khas.
6. Mr. Adnan s/o Hazratullah r/o Mohallah Azad Khel Topi
7. Mr. Ateeq Ur Rehman s/o Zahir Rehman r/o Mohallah Tauskhani Zaida.
8. Mr. Khalid Saeed s/o Abdul Hayee r/o Mohallah Karam Khel, Kala District Swabi (On Disable quota)

Terms and Conditions

1. Their services will be born under the prescribed policy of the Government.
2. They will be considered on probation for the period of one year which may be extended for further one year. During the Probation Period their services are liable to be dispensed without assigning any reason or notice.
3. Health and age certificate issued by the Medical Superintendent DHQ Hospital, Swabi be produced before joining the post.
4. The academic certificates / degrees would be verified from the concerned quarter in due course.
5. Any other law, rules or instructions from the Government on time to time would also be applicable.
6. If the above offer is accepted, you should report to the office on or before 24/07/2014, otherwise the offer will automatically stands cancelled.

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Deputy Commissioner, Swabi

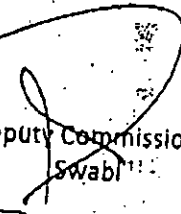
OFFICE OF THE DEPUTY COMMISSIONER, SWABI

No. 1983 /DCS/EA/Appointments


Dated 16/07/2014

Copy forwarded to the:-

1. Commissioner, Mardan Division, Mardan.
2. Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
3. ADC, Swabi
4. District Accounts Officer, Swabi
5. M.S DHQ Hospital, Swabi
6. Accounts Section DC Office, Swabi
7. All concerned for compliance.


 Deputy Commissioner,
 Swabi

DCS/EA/Appointments
 Commissioner
 Mardan Division
 Peshawar
 Khyber Pakhtunkhwa
 Peshawar

AMER


W/1355 SRC/2033.

NOTIFICATION
Peshawar, Dated 23/01/2015

In pursuance of provisions contained in Sub-Rule (2) of rule 2 of the North West Frontier Province Civil Servants (Promotion and Transfer) Rules, 1989 and in supersession of all rules issued in this behalf by the Revenue Department in consultation with the Chief Administration Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions in column 3 to 5 of the appendix to the notification which shall be applicable to post born in the cadre of Commissioners Specified in Column 2 of the annex.

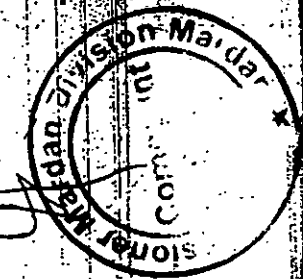
Annex:-

AMENDMENTS

Nomenclature of post with pay scale	Prescribed qualifications	Age	Method of recruitment
Superintendent (BPS-17)			By promotion on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) with five years service as such in the offices of Commissioners of the Division concerned.
Private Secretary (BPS-17)			By promotion on the basis of seniority-cum-fitness, from amongst the Senior Scale Stenographers (BPS-16) with at least five years service in the offices of Commissioners, Deput. Commissioners and Political Agents of the Division concerned.
Accounts Officer (BPS-16)			By transfer from the Treasury Department/Accountant General Office Khyber Pakhtunkhwa. Provided that an Officer/Teacher adjusted from surplus pool will be considered as rightly adjusted.

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No. of post. with	prescribed qualification	Age	Method of recruitment
(BPS-16)	At least Second Class Bachelor's Degree from a recognized University	20 to 32 years	(a) Seniority: five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks with at least five years service as Junior and Senior Clerk in the offices of Commissioner of Division concerned; and (b) Twenty five percent by initial recruitment.
Senior Scale Stenographer (BPS - 16)	(i) At least Second Class Bachelor's Degree, from a recognized University; (ii) A speed of 70 words per minute in shorthand in English and 45 words per minutes in typing; and Knowledge of computer using MS Word, MS Excel.	20 to 32 years	(a) Sixty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Stenographers with atleast five years service as such in the offices of Commissioner of Division concerned; and (b) Forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Computer Operators with atleast five years service as such in the office of Commissioner of Division concerned. Provided that if no suitable candidate is available for promotion, then by initial recruitment.
Stenographer (BPS - 14)	(i) At least second class Intermediate or equivalent qualification from a recognized Board (ii) A speed of 50 words per minute in shorthand in English and 35 words per minute in typing; Knowledge of computer in using MS Word, MS Excel.	18 to 30 years	By initial recruitment.
Senior Clerk (BPS-14)			By promotion on the basis of seniority-cum-fitness, from amongst the Junior Clerks of the offices of Commissioner concerned with at least two years service as such.
6A Head Vernacular Clerk / Head Clerk (BPS-14)			(a) By transfer from amongst Senior Clerk (BPS-14) of the offices of Commissioner and Deputy Commissioner having at least one year experience of Revenue and Land acquisition matters; or (b) Naib Tehsildars (BPS-14) of the Division concerned.

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Sl. No.	Non-nomenclature of post with prescribed qualification	Age	Method of recruitment
7.	Computer Operator (BPS - 12) i. At least second Class Bachelor Degree in Computer Science/ Information Technology (BCS/BIT, four years), from a recognized university; or ii. At least Second Class Bachelor's Degree from a recognized university with one year Diploma in Information Technology from a recognized Board of Technical Education.	18-28 Years.	By initial recruitment.
8.	Caretaker (BPS-11) At least second class Bachelor Degree or equivalent qualification from recognized university along with Certificate / Diploma in Housekeeping / hotel management from a recognized institute.	18-30 Years.	By initial recruitment.
8.	Junior Clerk (BPS - 11) (i) At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board; and (ii) A speed of 30 words per minute in typing.	18-30.	<p>a) Thirty three percent by promotion, on the basis of seniority-cum-fitness, from amongst the Qasids and Naib Qasids including holders of other equivalent posts in the Division concerned with two years service as such, who have passed Secondary School Certificate Examination; and</p> <p>b) Sixty seven percent by initial recruitment.</p> <p>Note: For the purpose of promotion there shall be maintained a common seniority list of Qasids and Naib Qasids etc with reference to the date of their regular appointment.</p> <p>Provided that no separate seniority list of Matric and non-matric BS-1 (Class-IV) employees can be maintained being single cadre. Their seniority shall be fixed with reference to the date of their regular appointment.</p> <p>Provided further that where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or officials.</p>
9.	Driver (BPS - 4) Literate having LTV driving license issued by the competent authority preference will be given to those who have sufficient experience in driving, repair and maintenance of vehicles.	18 - 32 years	By initial recruitment.

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S.No	Nomenclature of post with pay scale	prescribed qualification	Age	Method of recruitment
10A	Cook / Waiter (BPS-4)	Literate with three years practical experience in any hotel or guest house as cook / waiter.	18-32 Years.	By initial recruitment.
10B	Qasid	Literate	18-32 Years.	By promotion on the basis of seniority-cum-fitness, from amongst the Naib Qasids with two years service as such, and By initial recruitment.
10.	Naib Qasid / Chowkidar / Behishti / Mali / Sweeper (BPS-01)	Literate	18-32 Years.	By promotion on the basis of seniority-cum-fitness, from amongst the Naib Qasids with two years service as such, and By initial recruitment.

Sd/
 SECRETARY TO GOVERNMENT
 REVENUE AND ESTATE DEPARTMENT

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135/SSK/2034-73

Copies forwarded for information and necessary action to the:-

- Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
- Secretary to Government of Khyber Pakhtunkhwa Finance Department.
- Secretary to Government of Khyber Pakhtunkhwa Law Department.
- Secretary Khyber Pakhtunkhwa Public Service Commission.
- Registrar Peshawar High Court
- Inspector General Khyber Pakhtunkhwa.
- All Commissioners / Political Agents in Khyber Pakhtunkhwa.
- All Deputy Commissioners, Khyber Pakhtunkhwa.
- Private Secretary to Minister for Revenue Khyber Pakhtunkhwa.
- Chief Officer, Government Printing Press Peshawar with the request to publish the above notification in the official Gazette and supply 50 printed copies thereof to the undersigned for record.

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ATTESTED *[Handwritten signature]*

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 DEPUTY SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
 REVENUE & ESTATE DEPARTMENT

Annex - (A)

T

The Worthy Commissioner
Mardan Division Mardan.

APPLICATION FOR PROMOTION TO THE POST OF SENIOR SCALE STENOGRAPHER (BPS-16)

R/Sir,

Respectfully it is stated that the junior scale stenographer (BPS-14) and computer operator (BPS 12) are given quota for promotion to the post of Senior Scale Stenographer (BPS-16) under the Notification No. Estt: I/II/135/SSR/2033 dated 23.01.2015 recent Rules of Revenue & Estate Department Khyber Pakhtunkhwa Peshawar, framed for the purpose of promotion in Commissioner Offices (copy attached for ready reference)

It is to bring in your kind notice that two posts of senior Scale stenographer are already vacant in this office. According to new rules of Board of Revenue 60 % quota are given to junior scale and 40 % quota are given to computer operator for promotion to the post of Senior Scale Stenographer in office of the commissioner.

It is therefore requested that our applications may be taken up with Board of Revenue for further necessary action please.

Date 19.02.2015

Ibrahim (Junior Scale Stenographer BPS-14)

[Signature]

Ihsanullah (Junior Scale Stenographer BPS-14)

[Signature]

Muhammad Ishtiaq (Computer Operator BPS-12)

[Signature]

ACR
19/02

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[Signature]

put up today



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GOVERNMENT OF PAKISTAN
FEDERAL BUREAU OF INVESTIGATION
REVENUE & ESTATE DEPARTMENT

G.O. Peshawar dated the 23/05/2018

NOTIFICATION

No. Estt: II/DPC/Com/Mardan/ 21720 On the recommendation of Departmental Promotion Committee, Mr. Muhammad Ibrahim, Senior Scale Stenographer (BS-16) of the office Commissioner Mardan Division is promoted as Private Secretary (BS-17) on acting charge basis with immediate effect.

Consequent upon his promotion, he is posted as Private Secretary in the office of Commissioner Mardan Division against the vacant post.

By order of
Senior Member

No. Estt: II/DPC/Com/Mardan/ 21721-23

Copy forwarded to the:-

- 1. Commissioner Mardan Division Mardan.
- 2. District Accounts Officer Mardan.
- 3. Officials concerned

[Signature]
Assistant Secretary (Estt.)

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In Mardan, he is posted
Division against the vacant



Reshwa dated the 19/04/2018

NOTIFICATION

No. Estt./I/Promotion of JSS to SSS/
On the recommendation of Departmental
Promotion Committee, Mr. Ihsan Ullah Junior Scale Stenographer office of the Commissioner,
Mardan Division is appointed as Senior Scale Stenographer (BS-16) on acting charge basis with
immediate effect.

By order of
Senior Member

End: No. Estt./I/Promotion of JSS to SSS/18906-8

Copy forwarded to the:-

- 1. Commissioner, Mardan Division, Mardan
- 2. District Accounts Officer, Mardan
- 3. Official concerned

Assistant Secretary (Estt.)



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20 Apr 2018 10:21 AM P1

NOTIFICATION

No.Estt:II/DPC/Cmr/Mardan/_____ On the recommendations of Departmental Promotion Committee, the following Senior Scale Stenographers (BS-16) offices of the Commissioners / Deputy Commissioners are hereby promoted as Private Secretaries (BS-17) on regular basis with immediate effect:-

S.No.	Name and Designation	Name of office	Promoted/appointed
1	Mr. Muhammad Ibrahim, Private Secretary (ACB)	Commissioner office Mardan	Promoted as Private Secretary (BS-17) on regular basis
2	Mr. Muhammad Ishtiaq, Senior Scale Stenographer	Deputy Commissioner office Swabi	Promoted as Private Secretary (BS-17) on regular basis
3	Mr. Naveed Ali Khan, Senior Scale Stenographer	Commissioner office Bannu	Promoted as Private Secretary (BS-17) on regular basis
4	Mr. Istikhar Ali, Senior Scale Stenographer	Commissioner office Malakand	Promoted as Private Secretary (BS-17) on regular basis

On promotion they will be on probation for a period of one year in term of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer Rules, 1989).

No.Estt:II/DPC/Cmr/Mardan/13573-76.
Copy forwarded to the:-

1. Commissioners of the respective Divisions.
2. Deputy Commissioners of the respective Districts.
3. District Accounts Officers of the respective Districts.
4. Officials concerned.

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By Order of
Senior Member

[Signature]
Assistant Secretary (Estt)

BEFORE THE KHYBER PAKHTUNKHWA

VICES TRIBUNAL PESHAWAR.

Service Appeal 8/2019
Date of Institution 1.01.2019
Date of Decision 14.04.2022



Ihsanullah, Senior Scale Stenographer (Acting Charge), Office of the Commissioner, Mardan Division, Mardan. ... (Appellant)

VERSUS

The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and two others. (Respondents)

MR. MUHAMMAD AMIN AYUB, Advocate

For appellant.

MR. ASIF MASOOD ALI SHAH, Deputy District Attorney

For official respondents No. 1 & 2.

MR. NOOR MUHAMMAD KHATTAK, Advocate

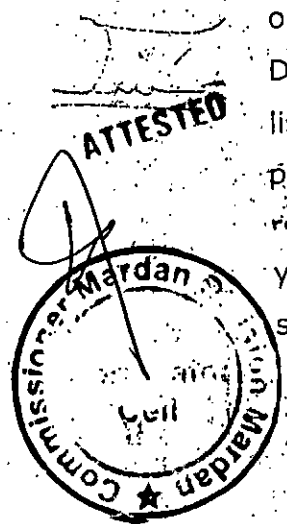
For private respondent No. 3

MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Brief facts as alleged by the appellant in his appeal are that he alongwith private respondent No. 3 namely Muhammad Ibrahim were appointed as Junior Scale Stenographers (BPS-12) vide order dated 29.06.2009, upon recommendations of Departmental Selection Committee. According to the merit list issued by Departmental Selection Committee, the position of the appellant was higher than the private respondent No. 3, however when the seniority list of the year 2014 was issued, private respondent No. 3 was placed senior to the appellant and on query of the appellant, he



ATTESTED
Khyber Pakhtunkhwa

was being told that private respondent No. 3 has been placed senior for the reason that he was older in age than the appellant. Seniority of civil servant appointed through initial recruitment is based upon merit list, which is prepared on the basis of marks obtained in the initial recruitment. In the seniority list of the year 2015, private respondent No. 3 was again placed senior to the appellant and was thus promoted as Senior Scale Stenographer (BPS-16) vide order dated 22.12.2015. The post of Private Secretary was laying vacant, therefore, the appellant preferred written request to Commissioner Mardan Division Mardan that private respondent No. 3 may be promoted to the post of Private Secretary, while the appellant may be promoted to the post of Senior Scale Stenographer. Consequently, upon recommendations of Departmental Promotion Committee, private respondent No. 3 was promoted to the post of Private Secretary, while the appellant was promoted to the post of Senior Scale Stenographer on acting charge basis vide Notification dated 19.04.2018. While preparing tentative seniority list of Junior Scale Stenographers, one Babar Hayat was placed senior to Sajjad Ahmad on the ground that Babar Hayat was holding higher position in the merit list issued by Departmental Selection Committee. The departmental appeal filed by Junior Scale Stenographer namely Sajjad Ahmad was also declined by Commissioner Mardan Division Mardan vide order dated 31.10.2018. The appellant being senior in merit list, also submitted departmental representation but the same was dismissed vide order dated 21.12.2018, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

3. Arguments heard and record perused.

4. During the course of arguments, learned counsel for the appellant submitted an application that appellant would

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EXAMINER
 Ministry of Education
 Service Tribunal

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be satisfied, if his promotion as Senior Scale Stenographer (BPS-16) is regularized with effect from 19.04.2018 i.e the date on which the appellant was promoted as Senior Scale Stenographer on acting charge basis. Learned counsel for private respondent No. 3 endorsed no objection on the application so submitted by learned counsel for the appellant.

5. In view of the application so submitted by the appellant, we would refrain from giving any findings regarding the controversy of inter-se seniority of the appellant and private respondent No. 3. While analyzing the record in context of the request so made by the appellant through the application submitted by him, it is evident that vide Notification dated 23.01.2015 issued by Government of Khyber Pakhtunkhwa Board of Revenue/Revenue and Estate Department, various amendments were made in the relevant rules. In view of the said rules, private respondent No. 3 namely Muhammad Ibrahim and three other employees were promoted as Senior Scale Stenographers (BPS-16) on regular basis, vide Notification dated 22.12.2015. The appellant as well as private respondent No. 3 were appointed as Junior Scale Stenographers through same appointment order, however vide Notification dated 19.04.2018, the appellant was promoted as Senior Scale Stenographer (BPS-16) on acting charge basis instead of regular basis. The appellant was appointed as Junior Scale Stenographer in the year 2009. According to the relevant rules in field, 60% quota has been prescribed for promotion of the Stenographers to the post of Senior Scale Stenographer, subject to the condition that they possess at least 05 years service as such in the offices of Commissioners concerned. The appellant was thus possessing the prescribed length of service, therefore, he was required to have been promoted on regular basis instead of promoting him on acting charge basis vide Notification dated 19.04.2018. During the pendency of the instant appeal, the appellant has been promoted to the post

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of Senior Scale Stenographer on regular basis with immediate effect, vide Notification dated 30.06.2021.

6. In view of the above discussion, we have come to the conclusion that as the appellant was entitled for his promotion as Senior Scale Stenographer on regular basis on 19.04.2018, therefore, respondents are directed to issue corrigendum of notification dated 30.06.2021 considering the appellant as regularly promoted to the concerned post with effect from 19.04.2018 with all consequential benefits. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
14.04.2022

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application	30/5/22
Number of Words	1600
Copying Fee	18/-
Urgent	
Total	18/-
Name of Copyist	
Date of Completion of Copy	15/6/22
Date of Delivery of Copy	14/6/22

AD of S
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BEFORE THE SENIOR MEMBER BY
KHYBER PAKHTUN

REVENUE

Annex K

Ihsanullah Appellant
Muhammad Ibrahim Respondents

Annex K

O.R.D.E.R

The instant Departmental Appeal filed by Mr. Ihsanullah Senior Scale Stenographer, office of the Commissioner Mardan Division, against the seniority of Mr. Ibrahim Junior Scale Stenographer now promoted as Private Secretary BS-17.

Facts of the case are that the appellant as well as Mr. Muhammad Ibrahim was appointed as Junior Scale Stenographer on 30.06.2009 in the office of Commissioner Mardan. In the seniority list of Junior Scale Stenographer, the appellant was placed junior to Muhammad Ibrahim Junior Scale Stenographer, the appellant filed the instant appeal on 06.11.2014 after a lapse of 08 years against the seniority list of Mr. Muhammad Ibrahim Private Secretary BS-17.

Perusal of available record and comments obtained from Commissioner Mardan; the appellant was appointed in the year, 2009, but he has never challenged the seniority of Muhammad Ibrahim uptill 2017. Beside, the respondent Muhammad Ibrahim was promoted as Senior Scale Stenographer on 22.12.2015 while the present appellant remained acquiescent for more than two years. Seniority list has been issued from time to time which has never been assailed by present petitioner/ appellant. The present appellant is relying on screening test marks which are not the sole determinant in selection.

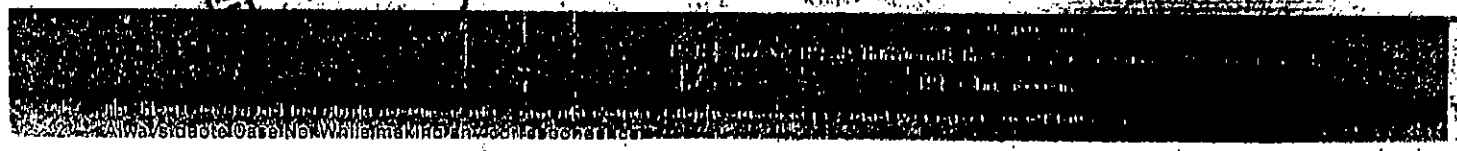
Keeping in view the above, the instant Departmental Appeal is badly time barred and having no legal ground, hence dismissed.

Announced
21.12.2018

M. Zulam
Fakhre Alam
Senior Member

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[Signature]
Commissioner Mardan Division
Comr

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[Signature]



Service Appeal No. _____

019

Mr. Ihsanullah,

Senior Scale Stenographer (Acting Charge)

Office of the Commissioner, Mardan Division, Mardan Appellant

Versus

1. The Senior Member, Board of Revenue,
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Commissioner,
Mardan Division, Mardan
3. Muhammad Ibrahim
Private Secretary (Acting Charge),
Commissioner Office, Mardan, Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 21.12.2018 COMMUNICATED ON 02.01.2019 WHEREBY RESPONDENT NO.1 DISMISSED THE DEPARTMENTAL APPEAL OF THE APPELLANT.

PRAYER:

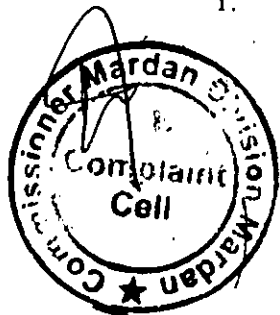
On acceptance of the instant appeal, the impugned appellate order dated 21.12.2018 communicated to appellant on 02.01.2019 may graciously be set aside by considering the appellant for seniority and promotion to the post of Senior Scale Stenographer (BS-16) with all consequential back benefits.

Respectfully Sheweth,

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

1. That appellant holds degree in Journalism & Mass Communication. On 25.03.2009 (Annex:-A) two posts of Junior Scale Stenographers (BPS-12) were advertised by Respondent No.2. Appellant and Respondent No.3

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applied for the same. They went through the selection process and upon the recommendation of the Departmental Promotion Committee they were appointed as such vide orders dated 29.06.2009 (Annex:-B).

2. That Petitioner and Respondent No.3 thereafter started serving the Department. In 2014, final Seniority List (Annex:-C) of the Junior Scale Stenographers as stood on 31.12.2014 was issued whereby Respondent No.3 was shown senior to the appellant. On query it was disclosed to the appellant that Respondent No.3 was placed senior on the ground that he was older in age although the appellant was qualified and had better performance in the selection process than Respondent No.3.

3. That vide Notification dated 23.01.2015 (Annex:-D), fresh Service Rules were framed by the Department under Rule-3(2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 whereby promotion to Senior Scale Stenographer (BPS-16) was made as 60% by promotion from amongst Stenographers (BPS-14) and 40% from amongst the Computer Operators.

4. That another Seniority List of Stenographers (BPS-14) was issued wherein too Respondent No.3 was placed above the name of the appellant on the basis of which Respondent No.3 was promoted to the post of Senior Scale Stenographer vide Notification dated 22.12.2015 (Annex:-E).

5. That the appellant also preferred Representation (Annex:-F) for promotion as the post of Private Secretary was lying vacant, therefore, the appellant made request for promotion of Respondent No.3 for the post of Private Secretary and for his promotion to the post of Senior Scale Stenographer (BPS-16). The request of the appellant was forwarded to Respondent No.1 vide letter dated 19.10.2017 (Annex:-G) which was considered and vide letter dated 07.11.2017 (Annex:-H) the Working Paper alongwith supporting documents were requisitioned from the Respondent No.2. Consequently, on the recommendation of the Departmental Promotion Committee, Respondent No.3 was promoted as Private Secretary (BPS-16) (Acting charge basis) vide Notification dated 18.05.2018 (Annex:-I) and appellant was promoted as Senior Scale Stenographer (BPS-17) on Acting Charge basis vide Notification dated 19.04.2018 (Annex:-J).

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6. That in the meanwhile, the decision was delivered by Respondent No.2 in a departmental appeal filed by one Mr. Sajjad Ahmad against the order of Deputy Commissioner, Swabi, wherein the Deputy Commissioner Swabi had allowed seniority to one Mr. Babar Hayat on the basis of his merit position in the merit list and seniority on Mr. Sajjad Ahmad on the basis of his age factor was set aside (relevant documents (Annex:-K).
7. That consequently appellant also made a Request on 26.10.2018 (Annex:-L) for providing the merit list so as to ascertain his merit position as he believed that his merit position was better than Respondent No.3 but still Respondent No.3 was placed senior to appellant on account of his age factor and accordingly Merit List (Annex:-M) was provided wherein appellant came to know that he was at the top of Merit List and therefore should have been senior to Respondent No.3. Accordingly, Departmental Representation was preferred to Respondent No.1 on 06.11.2018 (Annex:-N) through proper channel for his grant of seniority and promotion which was processed and comments were called from the Respondent No.2 who submitted the same vide letter dated 14.12.2018 (Annex:-O), however, the appeal was dismissed vide impugned appellate order dated 21.12.2018 (Annex:-P) communicated on 02.01.2019.

That appellant, being aggrieved of the impugned appellate order dated 21.12.2018 communicated on 02.01.2019, challenged the same through this appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned order, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That Respondent No.3 is an established junior to the appellant as is evident from the seniority list filed and therefore was not entitled for such promotion but due to clandestine efforts, he was promoted to the higher grade in violation of the law and rules by depriving the appellant from her due rights.
- C. That the appellant has been discriminated inasmuch as he being entitled to the subject promotion was deprived of the same and at his cost, Respondent

Attested
[Signature]

No.3 was unlawfully promoted which has resulted in serious miscarriage of justice.

D. That clear discrimination has been meted out towards the appellant by the Respondents. It would not be out of place to add here that under similar circumstances, the office of the Deputy Commissioner Swabi has granted seniority on the basis of Merit List and not on the basis of age factor, therefore, appellant is also entitled to be treated at par with the same employees.

E. That as per Rule-17(1)(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 The seniority inter se of civil servants appointed to service, cadre or post shall be determined in case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission or, as the case may be, the Departmental Selection Committee; provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons to the persons selected in a later selection. Hence appellant was at better position than Respondent No.3 in the merit list and as per law, appellant is an established senior to him.

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

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

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

Appellant
Through

Khaled Rahman,
Advocate,
Supreme Court of Pakistan

Dated: 30/01/2019

Handwritten signature/initials



OFFICE OF THE COMMISSIONER MARDAN DIVISION MA

Website: <http://sites.google.com/site/CommissionerMardanDivision>
Address: Opposite Town Hall,
Near College Chowk Mardan

Phone: 0937-9230572-73
Fax: 0937-9230578
Email: commissionermd@yah

32
Annex "M"

Notification:

On the recommendation of Departmental Promotion Committee, meeting dated 28/06/2021, Mr. Ihsan Ullah Senior Scale Stenographer (on Acting Charge Basis/BPS-16) of this office is hereby promoted to the post of Senior Scale Stenographer (BPS-16) on regular basis, with immediate effect:-

On promotion the official concerned will be on probation for a period of one year in term of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rules-15 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer Rules, 1989).

By Order of
Commissioner
Mardan Division Mardan
Dated Mardan the 30/06/2021

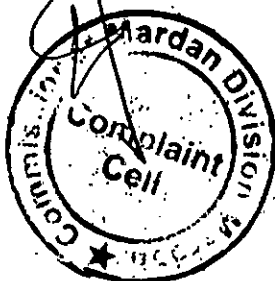
No. 966 /Sec/EA/DPC
Copy forwarded to:-

- 1- Deputy Commissioner Mardan & Swabi
- 2- District Comptroller of Accounts Mardan
- 3- Assistant Secretary (Estt) Board of Revenue & Estate Department Khyber Pakhtunkhwa
- 4- PS to Commissioner Mardan Division Mardan
- 5- Official Concerned
- 6- Finance Branch of this office.

Secretary to Commissioner
Mardan Division Mardan

30/06/2021

ATTESTED



IN THE SUPREME COURT C
(Appellate Jurisdiction)

KISTAN

Annex



Case No. CPLA No. 662-P/2022.

Title: Senior Member Board of Revenue Khyber Pakhtunkhwa, Peshawar and Others Versus Ihsan Ullah

SUBJECT: APPLICATION FOR EARLY HEARING & TRANSFER OF CASE TO PRINCIPAL SEAT AT ISLAMABAD

CATEGORY OF CASE: Service Matter/ Promotion & all consequential benefits

BRIEF OF CASE (FROM TRIAL COURT TO IMPUGNED ORDER):

Nature of Proceeding before lower Court: In Execution Petition the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar directed the petitioners for implementation of the judgment and order dated 14-04-2022 which is impugned before this august Court in CPLA No 662-P/2022.

Relief claimed in main case. Suspension of the impugned judgment & Order dated 14-04-2022 passed in Service appeal No. 148/2019:

GROUND/ REASON OF URGENCY:

1. Respondent filed Execution Petition No. 513/2022 before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar for implementation of impugned judgment & order dated 14-04-2022 passed in Service Appeal No. 148/2019 (First Page of Execution petition & order sheet dated 25-11-2022 are enclosed).
2. Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar vide order sheet dated 25-11-2022 put on notice the petitioner No. 2 for submission of implementation report of the judgment & order dated 14-04-2022 passed in Service appeal No. 148/2019 on the next date i.e 03-01-2023.
3. If the above noted judgment & Order is implemented it will cause irreparable loss to the Govt. exchequer and petitioners as well will also involve the petitioner in multiplicity of litigation.

PROOF OF URGENCY: Attached/ Not attached)

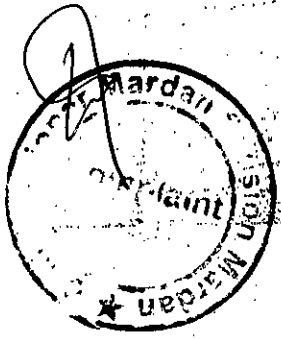
PRAYER:

It is respectfully prayed that the Petition may kindly be Transferred to the Principal seat at Islamabad and may kindly be fixed in the last Week of December, 2022:

UNDERTAKING:

Certified that this is 1st application by the AOR/Applicant for early fixation of instant case.

ATTESTED
Dated: 12-12-2022



(Signature)
(Farid Ullah Kundi)
Advocate on Record
Supreme Court of Pakistan
For the Government of KP
12/12/2022

Annex -

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Execution Petition No. /2022
In
Service Appeal No. 148/2019 dated 14/04/2022.

Ihsanullah, Senior scale Stenographer (Acting Charge),
Office of the Commissioner, Mardan Division, Mardan.....Applicant/Appellant

Versus:

1. The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
2. The Commissioner, Mardan Division, Mardan
3. Muhammad Ibrahim, Private Secretary (Acting Charge),
Commissioner Office, Mardan..... Respondents

APPLICATION UNDER SECTION 7(d) OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 FOR EXECUTION OF THE DECISION

Respectfully Sheweth:

1. It is submitted very respectfully that this humble applicant/appellant filed the Service Appeal No. 148/2019 dated 14/04/2022 in this Hon'ble Service Tribunal which was allowed on 14.04.2022 vide Judgement copy as Annexure-"A"
2. That the applicant submitted an application to Respondent No. 02 for implementation of the Judgement copy as Annexure-"B", however, the respondents have not obeyed but refused to implement the decree of this Hon'ble Tribunal.

ATTESTED

In view of the above, the applicant is constrained to file the instant application for the implementation of the decree of this Hon'ble Tribunal annexed as "A" Supra.



4. Therefore, it is requested the Official respondents may be directed to implement the Judgement/decree of this Hon'ble tribunal in the interest of Justice and fair play.

kindly

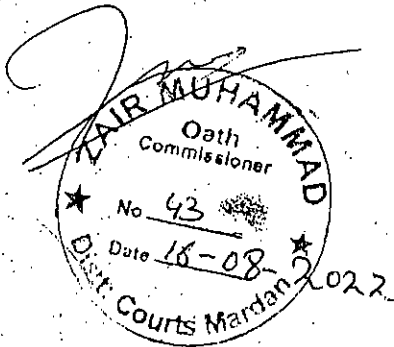
Applicant/Appellant

Ihsanullah

Ihsanullah
Senior Scale Stenographer
Commissioner Mardan Division, Mardan

Affidavit:

It is solemnly affirmed and declared on oath that the contents of the instant application are correct and true and nothing has concealed therein from this Hon'ble Tribunal.



Deponent

Ihsanullah

Ihsanullah
Senior Scale Stenographer
Commissioner Mardan Division, Mardan

Attested
[Signature]

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S.Bj
R&D: 00714606

E.P. No. 513/2022
Ihsanullah vs Govt

28th Oct., 2022 Petitioner in person present. Mr. M. Iqbal Adeel



Butt, Addl. Advocate General for the respondents present.

Implementation report on behalf of the respondents not submitted. Learned AAG requested for adjournment in order to contact the respondents to implement the judgment in letter & spirit. Adjourned. To come up for implementation report on 25.11.2022 before S.B.

[Signature]
(Fareeha Paul)

25.11.2022

Petitioner present in person. Muhammad Riaz Khan Member(E)
Paindakhel learned Assistant Advocate General alongwith Imran Akbar Assistant for respondents present.

Representative of the respondents requested for adjournment. He further submitted that Commissioner Mardan Division, Mardan be put on notice for proper implementation report as he was competent authority of the petitioner. In this view of the matter, notice be issued to Commissioner Mardan Division, Mardan for compliance on or before 03.01.2023 before S.B.

ACR

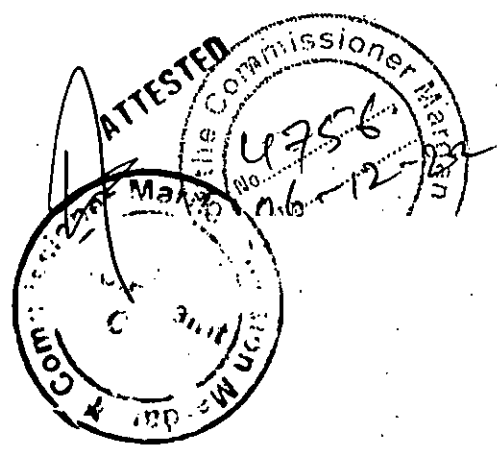
[Signature]
DATED AT
Peshawar

[Signature]
(Rozina Rehman)
Member (J)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

1st Lit. (Gomediak)
[Signature]





OFFICE OF THE COMMISSIONER MARDAN DIVISION MA

By FAX

MOST IMMEDIATE/COURT MATTER.
REMINDER.

No. 1740 /Court matter/ACR

Dated Mardan the 30 /12/2022.

To:

The Secretary,
Board of Revenue Khyber Pakhtunkhwa,
Peshawar.


Subject:

IMPLEMENTATION OF SERVICE TRIBUNAL ORDER IN THE
TITLE CASE IHSANULLAH VERSUS SMBR PESHAWAR.

Memo;

I am directed to refer to this office letter No.1673/Court matter/ACR dated 16-12-2022 on the subject noted above and to state that feedback in the subject matter is pending from your good office, which needs to furnish for further course of action as 3rd of January 2023 was been fixed in the subject case. Hence, you are requested to intimate the progress in the subject matter before the hearing date, as to avoid any embarrassment before the Court of Service Tribunal Khyber Pakhtunkhwa Peshawar please.

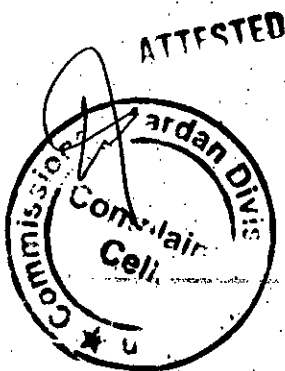
Regards.

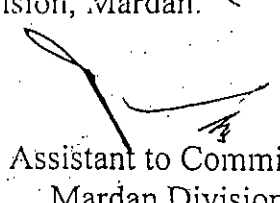

Assistant to Commissioner (Rev),
Mardan Division, Mardan.


No. & date even:

Copy forwarded to the:

- 1- Advocate General Service Tribunal Peshawar alongwith a copy of letter No.1673/Court matter/ACR dated 16-12-2022 for information please.
- 2- P.S to Commissioner Mardan Division, Mardan. (E-1)




Assistant to Commissioner (Rev),
Mardan Division, Mardan.

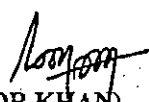
 GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT.	
091-9212726	091-9214208
No. Estt:II/SA/148/19/Ihsanullah/ 42	Peshawar Dated the 02/01/2023

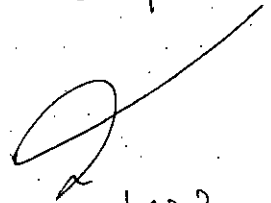
To
The Commissioner,
Mardan Division, Mardan.

**SUBJECT: IMPLEMENTATION OF SERVICE TRIBUNAL ORDER IN THE TITLE CASE
IHSANULLAH VERSUS SMBR PESHAWAR.**


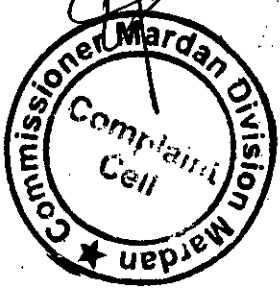
Sir,
I am directed to refer to your letter No. 1673/Court matter/ACR dated 16.12.2022 and to state that Khyber Pakhtunkhwa Service Tribunal has passed Judgment dated 14.04.2022 in the said case.

In the light of Khyber Pakhtunkhwa Service Tribunal judgment, you are hereby directed to issue conditionally/provisional regularization notification till the outcome of pending CPLA in August, Supreme Court of Pakistan.


(NOOR KHAN)
 Assistant Secretary (Estt)
 Board of Revenue

Secy

 02/01/2023

ATTESTED



OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

39 Any

Website: <http://sites.google.com/site/commissionerMardandivision>
Address: Opposite Town Hall, Near College Chowk Mardan Phone: 0937-9230572-73
Fax: 0937-9230578

OFFICE ORDER:

In pursuance of letter of the office of Assistant Secretary (Estt) Board of Revenue, Revenue & Estate Department Government of Khyber Pakhtunkhwa vide No. Estt:II/SA/148/ 19/Ihsanullah/42 dated 02/01/2023, Judgment of the Khyber Pakhtunkhwa Service Tribunal passed on 14th April, 2022 and with the approval of competent authority, the promotion order dated 19th April, 2018 in respect of Mr. Ihsan Ullah (Senior Scale Stenographer, BPS-16) is conditionally/provisionally regularized from the date of his promotion till the outcome of pending CPLA in August, Supreme Court of Pakistan.

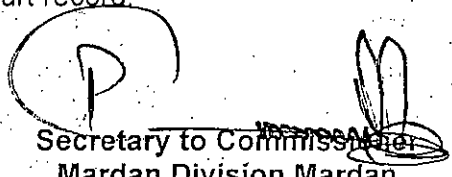
By order of
Commissioner
Mardan Division Mardan

No: 09 /Sec/EA/2-1

Dated Mardan the: 02 January, 2023

Copy forwarded to:-

- 1- Assistant Secretary (Estt) Board of Revenue, Revenue & Estate Department Government of Khyber Pakhtunkhwa w/r his office letter no. noted above.
- 2- Account Officer, Commissioner Office Mardan for further necessary action.
- 3- PS to Commissioner Mardan Division.
- 4- Court Assistant, Commissioner Office Mardan for court record.
- 5- Official Concerned.


Secretary to Commissioner
Mardan Division Mardan

ATTESTED

