

18.09.2018

Learned counsel for appellant and Mr. Abbas Khan SDO alongwith Mr. Usman Ghani, District Attorney present. Learned District Attorney requested for adjournment. Adjourned. To come up for arguments on 18.10.2018 before D.B at camp court, Abbottabad.


Member


Chairman
Camp court, A/Abad

18.10.2018

Counsel for the appellant Mr. Muhammad Arshad Khan Tanoli, Advocate present. Mr. Usman Ghani, District Attorney for the respondents present. Learned counsel for the appellant made a request for adjournment. Granted. To come up for arguments on 20.12.2018 before D.B at camp court, Abbottabad.


Member

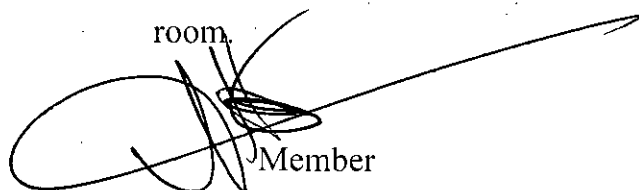

Chairman
Camp Court, A/Abad


20.12.2018

Mr. Muhammad Arshad Khan Tanoli, Advocate for appellant and Mr. Ziaullah, DDA for the respondents present.

Learned counsel for the appellant states that grievance of the appellant has since been redressed and he is under instructions to withdraw the instant appeal.

Dismissed as withdrawn. File be consigned to the record room.



Member



Chairman
Camp Court A/Abad

Announced:
20.12.2018

19.04.2018

Appellant alongwith counsel and Mr. Usman Ghani, District Attorney alongwith Ihsanullah, SO for the respondents present. To come up for arguments alongwith connected appeal No. 708/2016 on 25.6.2018 before the D.B at camp Court, Abbottabad.


Member


Chairman
Camp court, A/Abad

25.06.2018

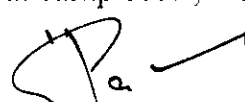
Counsel for the appellant Mr. Muhammad Khan Tanoli Advocate present. Mr. Usman Ghani District Attorney District Attorney for the respondents present. To come up for arguments on 29.06.2018 before the D.B at camp court, Abbottabad.



Member

Camp court, A/Abad


29.06.2018

^{S. Abid Hussain Shah}
Appellant's ~~Shahid Shah~~ in person alongwith counsel Mr. Muhammad Arshad Khan Tanoli, Advocate present. Mr. Ihsanullah, SO (Lit) and Abbas Khan, SDO alongwith Mr. Ziaullah, Deputy District Attorney for the respondents present. Arguments could not be heard due to paucity of time and on the other hand learned counsel for the appellant also made a request for adjournment for having not prepare the case for today. Adjourned. Case to come up for arguments on 18.09.2018 before the D.B at camp court, Abbottabad.


Member



Chairman
Camp court, A/Abad

21.12.2017 Clerk of the counsel for appellant present. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Mr. Yasir Jalil, Junior Clerk for the respondents present. Arguments could not be heard due to incomplete bench. To come up arguments on 21.03.2018 before D.B at Camp Court, Abbottabad.


(Gul Zeb Khan)
Member (Executive)
Camp Court, Abbottabad.

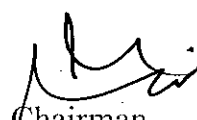
21.03.2018 Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith S. Zahid Kazmi, SDO for the respondents present. During the course of arguments it transpired that the relevant method of recruitment on the basis of which the appellant seek his remedy is not available on the file. The learned counsel for the appellant sought time for production of the same. Adjourned. To come up for production of such documents and further arguments on 21.4.2018 before this D.B at camp court, Abbottabad.

Member


Chairman
Camp court, A/Abad

17.04.2018 Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Muhammad Munir, Assistant for the respondents present. Part arguments heard. To come up for remaining arguments on 19.04.2018 before this D.B at camp court, Abbottabad.


Member


Chairman
Camp court, A/Abad

16.02.2017

Clerk of counsel for the appellant and Mr. Zahid Kazmi, SDO alongwith Mr. Muhammad Siddique Sr.GP for the respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 21.04.2017 before S.B at camp court, Abbottabad.

MEMBER
Camp Court, A/Abad

21.04.2017

Counsel for the appellant and jMr. Ihsanullah Khan, S.O (Litigation) and Mohammad Yaseen, Supdt. alongwith Muhammad Siddique, Sr.GP for the respondents present. Written reply submitted. The Worthy Chairman is on leave. This case may be placed before the Worthy Chairman for assigning it to D.B for rejoinder and final hearing for 24.08.2017 at camp court, Abbottabad.

Registrar
Camp Court, Abbottabad.

24/08.2017

Counsel for the appellant and Mr. Muhammad Bilal, Deputy District Attorney alongwith Mst. Amina SDO for the respondents present. Rejoinder submitted. The learned DDA seeks adjournment. Adjourned. To come up for final hearing before the D.B on 21.12.2017 at camp court, Abbottabad.

Member

Chairman
Camp court, A/Abad


18.08.2016

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was appointed as Sub Engineer BPS-11 on 09.7.1986 in Public Health Engineering Department Abbottabad. That he passed departmental examination on 29.10.1998 and, on the basis of the same, became eligible for higher scale BPS-16 but the same was not granted to the appellant constraining him to prefer departmental appeal on 31.3.2016 which was not responded and hence the instant service appeal on 11.07.2016.

That the appellant is entitled to promotion to BPS-16 w.e.f. the year 2004.


Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 24.11.2016 before S.B at camp court, Abbottabad.

Appellant Deposited
Security & Process Fee


Chairman
Camp court, A/Abad.

24.11.2016

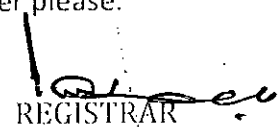

Agent of counsel for the appellant and Mr. Iftkhar, SDO alongwith Mst. Bushra Bibi, Government Pleader for respondents present. Requested for adjournment. To come up for written reply/comments on 16.02.2017 before S.B. at camp court, A/Abad


Chairman
Camp Court, A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 711/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/07/2016	<p>The appeal of Syed Abid Hussain Shah received today by post through Muhammad Arshad Khan Tanoli Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	25-7-16	<p>This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on. <u>18-8-16</u></p> <p> CHAIRMAN</p>

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

Service Appeal No. 711 /2016

Syed Abid Hussain Shah, Sub-Engineer, Public Health Engineer
Department, Abbottabad.

....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Public Health Engineering
Department, Khyber Pakhtunkhwa, Peshawar & others.

....RESPONDENTS

SERVICE APPEAL

INDEX

<i>S.#</i>	<i>Description</i>	<i>Page No.</i>	<i>Annexure</i>
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2.	Copy of appointment order	9	"A"
3.	Copy of notification dated 29/10/1998 wherein the appellant has been notified as qualified candidate	10	"B"
4.	Copy of departmental appeal	11-14	"C"
5.	Copy of order dated 26/11/2015	15	"D"
6.	Copy of the judgment	16-36	"E"
7.	Wakalatnama	37	

Heed
....APPELLANT

Dated: 02/07 /2016

Through

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No. 23 Adjacent to
(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

1

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

Service Appeal No. 711 /2016

Syed Abid Hussain Shah, Sub-Engineer, Public Health Engineer
Department, Abbottabad.

....APPELLANT

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 698

Dated 11-7-2016

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer, Public Health Engineering Department South, Peshawar.
3. Superintendent Engineer, Public Health Circle, Abbottabad.

....RESPONDENTS

Filed to-day

Registrar

11/7/16

SERVICE APPEAL UNDER SECTION 4 OF
KPK SERVICE TRIBUNAL ACT, 1974, FOR
DECLARATION TO THE EFFECT THAT THE
APPELLANT QUALIFIED DEPARTMENTAL
EXAMINATION FOR GRANT OF SENIOR
SCALE PROMOTION ON 27/06/1996 BUT

RESPONDENT NO. 2 IS NOT ALLOWING/
GRANTING SENIOR SCALE (BPS-16) TO THE
APPELLANT AS PER 25% RESERVED SEATS
FOR PROMOTION TO SENIOR SCALE (FROM
BPS-11 TO BPS-16) VIDE OFFICE
MEMORANDUM DATED 16/11/1974 WHICH
IS AGAINST THE LAW AND NATURAL
JUSTICE.

PRAYER: ON ACCEPTANCE OF THE
INSTANT SERVICE APPEAL, RESPONDENTS
DEPARTMENT, SPECIALLY RESPONDENT
NO. 2 MAY GRACIOUSLY BE DIRECTED TO
GRANT SENIOR SCALE TO THE APPELLANT
FROM BPS-11 TO BPS-16 W.E.F 2004
ONWARDS WITH ALL BACK BENEFITS.

Respectfully Sheweth: -

1. That the appellant joined respondents
department as Sub-Engineer (BPS-11) on
9.7.1986. Copy of appointment order is
annexed as Annexure "A".

2. That the appellant served the department with complete devotion and dedication to the entire satisfaction of his superiors and always abide by the service laws. The appellant earned very good ACRs during his service.

3. That departmental examination is mandatory prior to the grant of senior scale from BPS-11 to BPS-16. Therefore, the appellant qualified departmental examination for grant of senior scale/ promotion in BPS-16 on 29/10/1998. In this regard, the fact of passing of departmental examination has been notified by respondent No. 2 vide notification No. 140815/154 dated 29/10/1998. Copy of notification dated 29/10/1998 wherein the appellant has been notified as qualified candidate is attached as Annexure "B".

4. That inspite of this, respondent No. 2 is reluctant to allow senior scale to the appellant from BPS-11 to BPS-16 which is against the law, rules, notification on the

subject. Hence, appellant filed departmental appeal for grant of senior scale BPS-16 votes departmental appeal dated 31-03-16

Copy of departmental appeal is attached as Annexure "C". Resultantly the instant appeal is filed, inter-alia, on the following grounds:-

GROUND:-

- (a) That as per office memorandum dated 26/11/1974 senior scale is still being granted to some similar employees of other department except the employees of Public Health Engineer Department Khyber Pakhtunkhwa. It is further submitted that the said office memorandum is applicable to all diploma holder Sub-Engineer of Federal and Provincial Departments. Copy of a similar employee, Mr. Sajjad Hussain Shah BPS-11 PAK PWD, who has been granted BPS-16 vide office order dated 26/11/2015.

Copy of order dated 16/11/2015 is attached as Annexure "D".

(b) That respondents, department used to grant senior scale to Sub-Engineers asp per 25% reserved seats for Sub-Engineers BPS-16 subject to seniority fitness having 10 years of service and passing of prescribed departmental examination prior to 2001 but after promulgation of basic pay scale of 2001, the grant of senior scale has been stopped the appellant fulfills the criteria for grant of senior scale BPS-16.

(c) That it is worth to mention here that Govt. only abolished selection grades in the revised basic pay scale 2001 and not senior scale. In this regard, Supreme Court of Pakistan has held that "*The terms of the directive of the Federal Govt. contained in the office memorandum dated 16/11/1974 shall be strictly adhered to and followed*

justly and fairly to redress the grievance of the respondents" vide judgment dated 19/10/2013. Copy of the judgment is attached as Annexure "E".

- (d) That no stretch of the imagination deprived the appellant from grant of senior scale from BPS-11 to BPS-16 as the Supreme Court has already declared that the same benefits be extended to Sub-Engineers which comes under the office memorandum No. WA/4(25) dated 16/11/1974, therefore, the appellant is entitled for senior scale BPS-16.
- (e) That good governance demands that the law and rule are to be strictly adhered to and rightful dues and other benefits, as per law be extended to the aggrieved persons without delay.
- (f) That court should not fold up its hands while granting relief to the

appellant who is shuttling from pillar to post in the department for grant of senior scale BPS-16 but of no avail.

(g) That respondents department has led the appellant to the place which is utterly unknown to the principle of natural justice and law and jurisprudence.

(h) That this fact may not be left to fade in oblivion that the notification/ office memorandum dated 16/11/1974 is still intact and has not specifically amended or withdraw by the Govt. therefore, the appellant is entitled to be granted senior scale BPS-16.

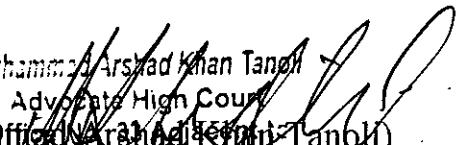
(i) That there is no other speedy, efficacious and adequate remedy available to the appellant, except the present appeal.

It is, therefore, humbly prayed that on acceptance of the instant service appeal, respondents department, specially respondent No. 2 may graciously be directed to grant senior scale to the appellant from BPS-11 to BPS-16 w.e.f 2004 onwards with all back benefits.


...APPELLANT

Through

Dated: 02/07 /2016


Muhammad Arshad Khan Tanoli
Advocate High Court
(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.


...APPELLANT

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

Service Appeal No. _____/2016

Syed Abid Hussain Shah, Sub-Engineer, Public Health Engineer
Department, Abbottabad.

....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Public Health Engineering
Department, Khyber Pakhtunkhwa, Peshawar & others.

....RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

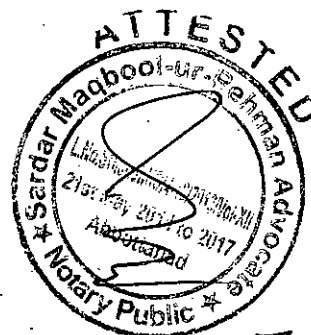
I, Syed Abid Hussain Shah, Sub-Engineer, Public Health Engineer
Department, Abbottabad, do hereby solemnly affirm and declare that the
contents of forgoing appeal are true and correct to the best of my knowledge
and belief and nothing has been concealed therein from this Honourable
Court.



DEPONENT

Identified by;

Muhammad Arshad Khan Tanoli
Advocate High Court
(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad



4 / 7
2016

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Annex - A

2 P-9

PUBLIC HEALTH ENGINEERING DEPARTMENT NWFP.
OFFICE ORDER NO. 130445/88 Dated Peshawar, the 31/1986.

In consultation with Departmental Selection Committee
Mr. Syed Abid Hussain Shah, S/O Pir Zaman Shah, Vill: & P.O. Jhangi,
Teh: & Distt: Abbottabad.

is hereby offered a post of Sub Engineer in the Basic Pay Scale
No. (B-11) plus usual allowances as admissible under the rules from
time to time on the following terms and conditions :-

1. The post is purely temporary but likely to continue.
2. His services may be terminated at one month's notice without any reasons being assigned at any time irrespective of the fact that he is holding a post other than one to which he was originally recruited, or on the payment of one month's salary in lieu of the notice period.
3. He shall not leave the service unless his resignation is accepted by the competent Authority. Should he desire to resign from service, he may apply for the same with one month notice or alongwith one month pay in lieu of notice period.
4. He will be governed by such rules and orders relating to conduct efficiency and discipline, leave travelling allowance, medical attendance, pay etc as may be issued by Govt: for the category of Govt: Servants to which he will belong.
5. He will be governed under Public Health Engg: Department Service Rules as regards service condition.
6. He will have to furnish a declaration in writing, (i) that he has not already been prescribed from service under the Govt: or any local body and (ii) that he was not dismissed by any other agency.
7. He will be on probation for an initial period of two years extendable upto 3 years.
8. He will have to produce a medical certificate of fitness from the medical Superintendent of the Distt: at the time of joining duty.

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No. 33 Adjacent to
Distt: Abbottabad

He will be liable to serve any-where in NWFP and Federally Administered Tribal Area.

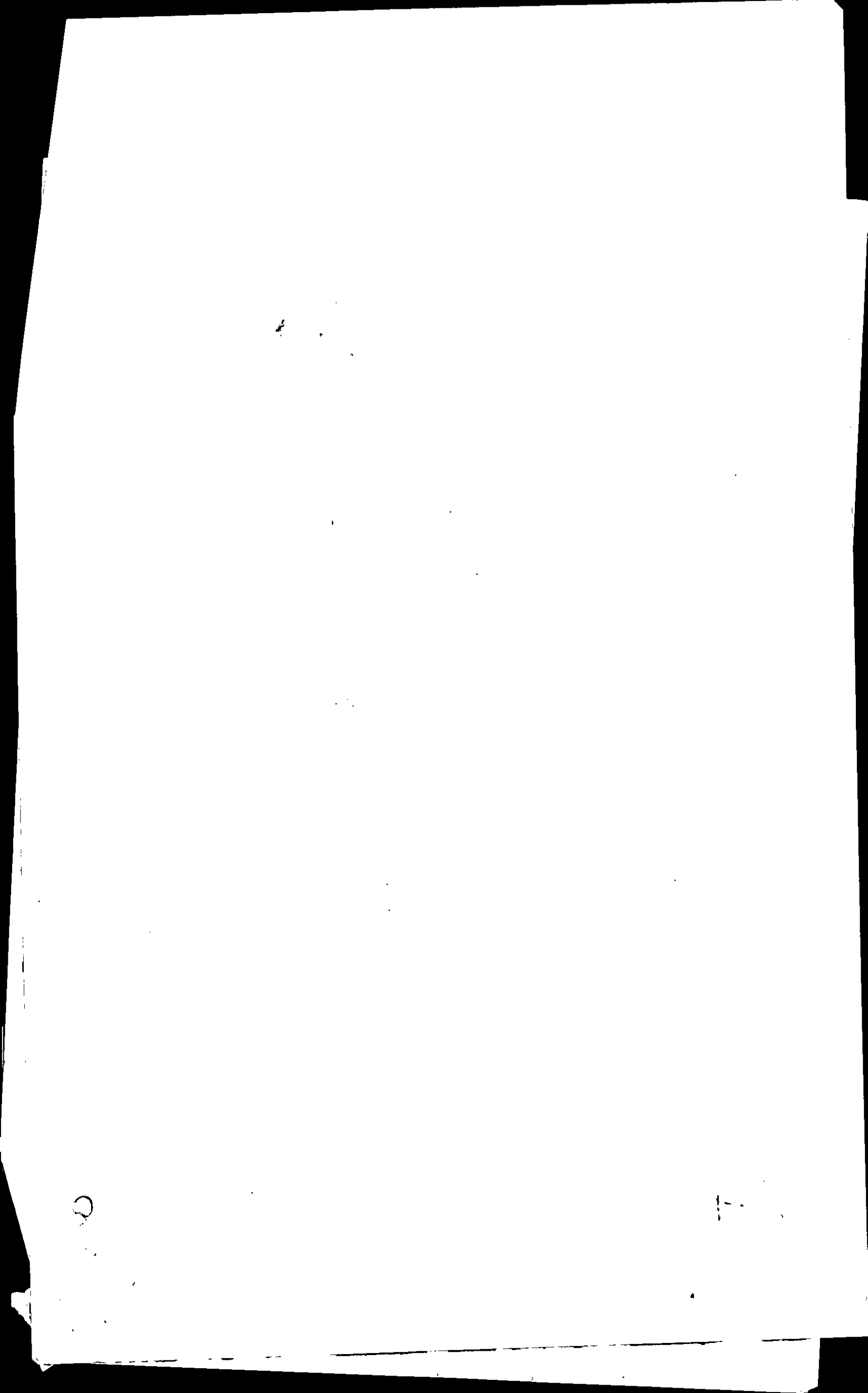
No TA/DA is allowed for joining the place of posting.
If he accepts the appointment on the terms and conditions specified above, he should report for duty to the Chief Engineer
P.H.E. Distt: Abbottabad within 14 days of the issue of this offer failing which the offer shall stand cancelled automatically.

Chief Engineer,
Public Health Engg: Department,
NWFP: Peshawar.

Endst: No. 130445 / 3 / Dated Peshawar, the 31 / 1986.

- A Copy is forwarded to the :-
- 1/ Superintending Engineer, PHE Circle Abbottabad
 - 2/ Executive Engineer, PHE Division Abbottabad
- The original certificates of the applicant may please be verified by him at the time of accepting arrival report. His date of arrival may please be reported to this office alongwith copies of testimonials. The declaration required vide item 6 above may please be obtained and sent to this office while submitting his date of arrival.
- 3/ Syed Abid Hussain Shah, S/O Pir Zaman Shah, Vill: & P.O. Jhangi,
Teh: & Distt: Abbottabad.

[Signature]
Chief Engineer,
Public Health Engg: Department,
NWFP: Peshawar.



Amey - C

Syed Abid Hussain

To

The Secretary to Govt: of Khyber Pakhtunkhwa,
Public Health Engg: Department,
Peshawar.

Secretary P.H.E. Deptt:
File No. 1379
Date: 31-03-16

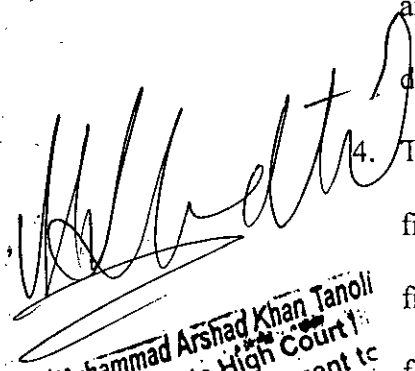
P 11

SUBJECT: APPEAL FOR GRANT OF SENIOR SCALE TO THE APPELLANT FROM BPS-11 TO BPS-16 AS PER OFFICE MEMORENDUM NO.WA/4(25)/74 DATED 16-11-1974 W.E.F 2004 ONWARD.

Dear Sir,

1. That the appellant is serving in PHE Department as Sub Engineer BPS-11 w.e. from 09-07-1986 i.e the date of appointment of the appellant (copy attached).
2. That the appellant qualified departmental examination which is the sinequanon for grant of senior scale from BPS-11 to BPS-16. That the date of passing of departmental examination of the appellant for senior scale is 29-10-1998 (copy of letter showing the appellant as successful candidate copy is attached).
3. As per office memorandum No. WA/4(25)/74 dated 16-11-1974, 25% of the total posts of Diploma Engineers are to be placed in BPS-16. These posts are to be filled on the basis of seniority cum fitness and subject to 10 years service and passing of the prescribed departmental examination. That Govt: of Khyber Pakhtunkhwa as well as Federal Govt: only abolished Selection Grade in revised basic pay scale 2001 and there is no law/ notification and OM wherein senior scale of diploma holders from BPS-11 to BPS-16 had been abolished.
4. That office memorandum dated 16-11-1974 is still intact and holds the field and the authorities were/ are supposed to grant of senior scale from BPS-11 to BPS-16 to the ipso facto, as the appellant is entitled for senior scale in BPS-16 w.e.f 2004 onwards. But the department did not grant the same benefits to the appellant so far.
5. It is also stated that similar benefits has been granted to a similar employee of Pak PWD under the O.M dated 16-11-1974. It is further mentioned that O.M dated 16-11-1974 was passed for diploma holders of the Federal Govt: as well as Provincial Civil Servants.
6. That the Supreme Court of Pakistan in a similar case held that the

Attested



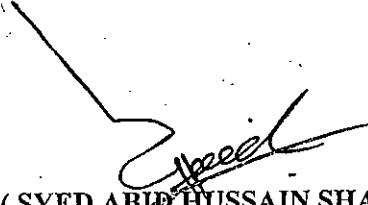
Muhammad Arshad Khan Tanoli
Advocate High Court
Office No 33 Adjacent to
Distt

P-12

memorandum dated 16-11-1974 shall be strictly adhered to & follow justly & fairly vide judgement dated 19-10-2013. In compliance of judgement of Supreme Court of Pakistan, Pakistan Public Works Department granted senior scale to one Mr. Sajjad Hussain Shah Sub Engineer from basic pay scale-11 to BPS-16 on 26-11-2015 (copy of order is attached).

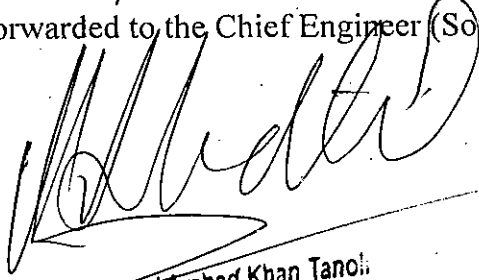
In view of the above it is prayed that the Departmental Appeal of the appellant may graciously be accepted and may be granted senior scale to appllant from BPS-11 to BPS-16 w.e.f 2004 as per office memorandum dated 16-11-1974.

Enclosed: As stated


(SYED ARID HUSSAIN SHAH)
SUB ENGINEER,
PUBLIC HEALTH ENGG: DIVISION
ABBOTTABAD

~~Attested~~
Attested

Copy forwarded to the Chief Engineer (South) PHE Peshawar


Muhammad Arshad Khan Tanoli
Advocate High Court
Office No. 33 Adjacent to
Dist Bar Abbottabad

To

D-13

The Secretary to Govt: of Khyber Pakhtunkhwa,
Public Health Engg: Department,
Peshawar.

SUBJECT: APPEAL FOR GRANT OF SENIOR SCALE TO THE APPELLANT FROM BPS-11 TO BPS-16 AS PER OFFICE MEMORENDUM NO.WA/4(25)/74 DATED 16-11-1974 W.E.F 2004 ONWARD.

Dear Sir,

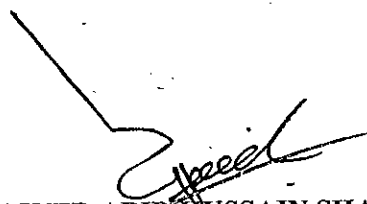
1. That the appellant is serving in PHE Department as Sub Engineer BPS-11 w.e. from 09-07-1986 i.e the date of appointment of the appellant (copy attached).
2. That the appellant qualified departmental examination which is the sinequanon for grant of senior scale from BPS-11 to BPS-16. That the date of passing of departmental examination of the appellant for senior scale is 29-10-1998 (copy of letter showing the appellant as successful candidate copy is attached).
3. As per office memorandum No. WA/4(25)/74 dated 16-11-1974, 25% of the total posts of Diploma Engineers are to be placed in BPS-16. These posts are to be filled on the basis of seniority cum fitness and subject to 10 years service and passing of the prescribed departmental examination. That Govt: of Khyber Pakhtunkhwa as well as Federal Govt: only abolished Selection Grade in revised basic pay scale 2001 and there is no law/ notification and OM wherein senior scale of diploma holders from BPS-11 to BPS-16 had been abolished.
4. That office memorandum dated 16-11-1974 is still intact and holds the field and the authorities were/ are supposed to grant of senior scale from BPS-11 to BPS-16 to the ipso facto, as the appellant is entitled for senior scale in BPS-16 w.e.f 2004 onwards. But the department did not grant the same benefits to the appellant so far.
5. It is also stated that similar benefits has been granted to a similar employee of Pak PWD under the O.M dated 16-11-1974. It is further mentioned that O.M dated 16-11-1974 was passed for diploma holders of the Federal Govt: as well as Provincial Civil Servants.
6. That the Supreme Court of Pakistan in a similar case held that the terms of directive of the Federal Govt: contained in the office

P-14

memorandum dated 16-11-1974 shall be strictly adhered to & follow justly & fairly vide judgement dated 19-10-2013. In compliance of judgement of Supreme Court of Pakistan, Pakistan Public Works Department granted senior scale to one Mr. Sajjad Hussain Shah Sub Engineer from basic pay scale-11 to BPS-16 on 26-11-2015 (copy of order is attached).

In view of the above it is prayed that the Departmental Appeal of the appellant may graciously be accepted and may be granted senior scale to apppllant from BPS-11 to BPS-16 w.e.f 2004 as per office memorandum dated 16-11-1974.


Enclosed: As stated

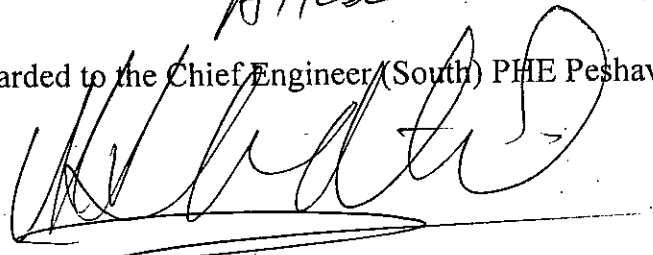

(SYED ARID HUSSAIN SHAH)
SUB ENGINEER,
PUBLIC HEALTH ENGG: DIVISION
ABBOTTABAD

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Jic

Attested

Copy forwarded to the Chief Engineer (South) PHE Peshawar


31/03



Muhammad Arshed Khan Tanc
Advocate High Court
Office No: 33 Adjacent to
Distt' Bar Abbottabad

Annex "D",
P-15

**GOVERNMENT OF PAKISTAN
PAKISTAN PUBLIC WORKS DEPARTMENT**

No.All-713/772(25% Placement)/2015.

Islamabad the, 26th November, 2015.

OFFICE ORDER

In pursuance of Ministry of Housing & Works letter No.F.9(3)/2007-Admn.III dated 26th October, 2015, in accordance with Judgement of Supreme Court of Pakistan dated 10th February, 2014 and on the recommendation of the Departmental Promotion Committee, Mr. Sajjad Hussain Shah, Sub-Engineer (Civil) (BS-11), attached to Central Civil Division, Pak. PWD, Abbottabad, is hereby placed in (BS-16) (Gazetted) with immediate effect and until further orders.

2. Consequent upon his placement in (BS-16) he is posted in the same Division with immediate effect in the interest of public service.

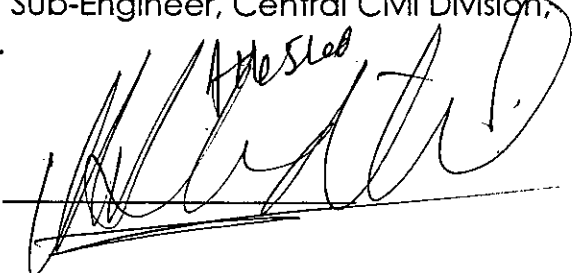

(M.B. KHATTAK)

Chief Administrative Officer

Tele: 9261145

DISTRIBUTION:-

1. Chief Engineer(North), Pak. PWD, Islamabad.
2. Director, Budget & Accounts, Pak. PWD, Islamabad.
3. Superintending Engineer, Project Civil Circle, Pak. PWD, Islamabad.
4. Executive Engineer, Central Civil Division, Pak. PWD, Abbottabad.
5. Mr. Sajjad Hussain Shah, Sub-Engineer, Central Civil Division, Pak. PWD, Abbottabad.
6. Master File.


Muhammad Arshad Khan Tanoli

Advocate High Court

Office No- 33 Adjacent

Distt. For Abbottabad

Annex "E"

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT: Mr. Justice Anwar Zaheer Jamali.
Mr. Justice Ejaz Afzal Khan.
Mr. Justice Iqbal Hamcedur Rahman.

P-16

Civil Appeal No. 181/2013.
(On appeal against the judgment dated 05.09.2012
passed by the High Court of Sindh, Karachi,
in Const. P. No. D-607/2011)

Federal Ministry of Defence through its Director
General, Headquarters, Civil Aviation Authority,
Karachi, etc.

Appellant(s).

Versus

Syed Muhammad Omar, etc.

Respondent(s).

For the Appellant(s):

Mr. Sanaullah Noor Ghouri, ASC.

For Respondent Nos. 1-5:

Mr. Abdul Rahim Bhatti, ASC.

For Respondent No. 6:

In-person.

Date of Hearing:

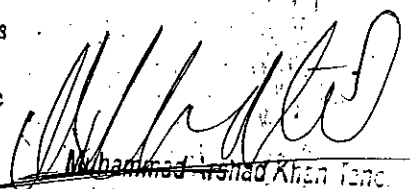
09.10.2013.

JUDGMENT

Iqbal Hamcedur Rahman, J.: - Through the instant appeal, with the leave of the Court, the appellants have called in question the judgment dated 05.09.2012 passed by the learned High Court of Sindh, Karachi, in Constitution Petition No. D-607/2011 whereby the said writ petition filed by respondent Nos. 1-7 (hereinafter to be referred as "the respondents") has been accepted and the appellants have been directed to comply with the requirement of Memorandum dated 16.11.1974 prior to the recruitment being made in Grade-17 to the posts of Electrical Engineers in Civil Aviation Authority (hereinafter to be referred as "the CAA").

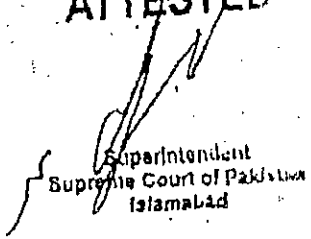
2. The concise facts of the instant appeal are that respondents filed a constitution petition before the High Court of Sindh, Karachi, with the assertions that they are Diploma holders from various technical institutions and are working as Sub-Engineers (BS-16) in the CAA and as per the

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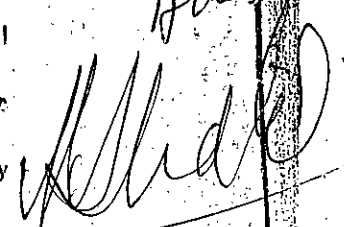
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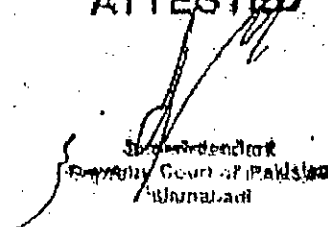


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policy directive issued by the Government of Pakistan i.e., C.M. No.WA/4(25)/74 dated 16.11.1974 (hereinafter to be referred as "the Memo"), and they are entitled to be considered by the appellants prior to inviting applications for fresh appointments to the posts of Electrical Engineers in the CAA. Their seniority was to be considered and they were to be promoted accordingly. Prior to complying with the directive in the Memo, no advertisement could have been made for appointments to the said posts. In the above perspective, the respondents had called in question the advertisement dated 23.01.2011 inviting applications from B.E. (Electrical) degree holders for the posts of Electrical Engineers in the CAA. It was averred by the respondents that as per the policy directive, 25% of the total posts of the Diploma Engineers should be placed in Grade-16 and to be filled in on the basis of seniority-cum-fitness and subject to 10 years service and passing of the prescribed departmental examinations. Further according to Clause (iv) of the Memo, 20% of the posts in Grade-17 should be reserved for promotion of Diploma Engineers in Grade-16 on the basis of selection for which standards and criteria should be laid down by the departments concerned. In view of the Memo, the respondents being eligible were to be considered against reserved 20% posts of Electrical Engineers in Grade-17 and thereafter any fresh recruitment should be initiated. Any recruitment being made prior to the same would adversely affect their seniority. It was further pointed out by the respondents that as per Section-4 of the Pakistan Civil Aviation Authority Ordinance, 1982 (hereinafter to be referred as "the Ordinance") a policy directive issued by the Federal Government was binding upon the CAA, therefore, the Memo was to be complied with prior to making any advertisement for filling the said posts. In such view of the matter, the writ petition of the respondents had been accepted in the following terms: -

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"18. Result of the above discussion is that this constitution petition is disposed of in the following terms:-

- (i) A separate seniority lists shall be maintained by Civil Aviation Authority of Diploma Holders for group 5 (equivalent DS-11) and Pay Group 7 (equivalent DS-16).
- (ii) Reservation laid down in Office Memorandum dated November 16, 1974 shall be strictly followed.
- (iii) Till such time entire requirement of Memorandum of November 16, 1974 is completed with no further recruitment in these cadres shall take place."

Feeling aggrieved of the judgment of the learned High Court, the appellants have approached this Court through the instant appeal wherein leave was granted by this Court vide its order dated 08.02.2013, which reads as under:-

" After hearing the learned ASC for the petitioners, leave to appeal is granted to examine, inter alia, whether the exercise of jurisdiction by the High Court under Article 199 of the Constitution vide its impugned judgment is in accordance with the dicta laid down by this Court as regards its jurisdiction; and, whether the directions issued in the impugned judgment are in conformity with the relevant provisions of law and the directions of the Federal Government.

2. Since the controversy involved is likely to affect the working of Civil Aviation Authority, therefore, the office is directed to fix the appeal arising out of this petition within two months."

3. Mr. Sanaullah Noor Ghouri, learned counsel for the appellants, at the very outset laid great emphasis on the maintainability of the writ petition before the learned High Court mainly on the ground of laches by stating that the respondents had called in question, through writ petition, the Memo dated 16.11.1974 in the year 2011 as such their petition was hit by laches and the same has not been taken into consideration by the learned High Court which, on this score alone, merited forthright dismissal of the writ petition. It was further argued that even otherwise the writ petition was not maintainable against the CAA as there were no statutory rules as such it is a well settled principle that in such like circumstances a writ petition under

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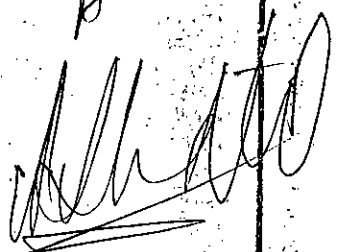
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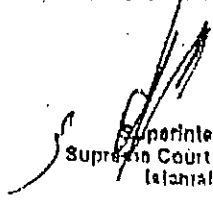
Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, could not have been entertained. Learned counsel in order to support his argument relied upon the case of Muhammad Aslam Khan vs. Federation of Pakistan and others (2013 SCMR 747). Moreover, the learned counsel contended that after the enactment of the Ordinance the directive had become redundant.

1. On the other hand, Mr. Abdul Rahim Bhatti, learned counsel for the respondents, emphasized that the directive issued by the Federal Government is to be complied with by the appellants and in this regard he adverted to Section-4 of the Ordinance and submitted that any directives issued by the Federal Government to the CAA on the matters of policy are binding upon the CAA and the decision of the Federal Government is final as such the directive issued in the Memo was to be complied with in its letter and spirit by the appellants. The learned counsel for the respondents further submitted that the argument of the learned counsel for the appellants that the writ petition was hit by laches is misconceived as the respondents had approached the learned High Court in constitutional jurisdiction on account of the advertisement dated 23.01.2011 whereby applications had been invited from B.E. (Electrical) degree holders for the posts of Electrical Engineers for fresh appointments in the CAA as a result of which the respondents were aggrieved of fresh recruitments being made. They were to be considered for promotion to the post of Electrical Engineers in Grade-17 first. That the issuance of the directive given in the Memo is not denied by the appellants but their stance is that after the enactment they are not bound to comply with the same. It was further submitted that the appellants through 104th Extra Ordinary Meeting held on 10.02.1994 had partially complied with the directions of the Memo and upgraded the post of Diploma Engineers to PG-5 on account of which 25% of the total posts

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Electrical Engineers should be placed in Grade-16. These posts should be filled on the basis of seniority-cum-fitness and subject to 10 years service and passing of prescribed departmental examinations, hence the respondents were entitled to the posts of Electrical Engineers in Grade-17 for which 20% seats should be reserved for Diploma Engineers from Grade-16, therefore, prior to doing the same the respondents would suffer, on account of fresh recruitment the seniority of the respondents would be adversely affected.

5. We have heard the learned counsels for the parties and have gone through the material available on record and have carefully perused the impugned judgment.

6. The crux of the matter in the instant appeal is whether the appellants were bound by the directive issued in the Memo, which is reproduced herein below for ready reference: -

PRIME MINISTER DECISIONS
No. WA/4(25)74
GOVERNMENT OF PAKISTAN
MINISTRY OF FUEL, POWER AND NATURAL RESOURCES
Islamabad, the 16th November, 1974

OFFICE MEMORANDUM

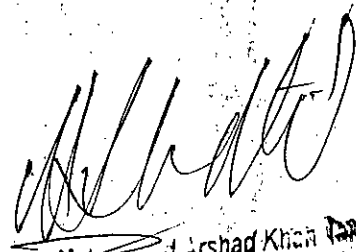
Subject:— DEMANDS OF THE PAKISTAN DIPLOMA ENGINEERS FEDERATION.

The undersigned is directed to say that the Pakistan Diploma Engineers Federation had placed certain demands before the Government. A Committee consisting of Federal and Provincial Government representatives was constituted to consider these demands and to make recommendations. The report of the Committee was placed before the Prime Minister and with his approval the following decisions have been taken:—

- (i) The Diploma Engineers should be given Grade 11 to start with (This decision has already been given effect to vide Finance Division O. M. No. F. 1 (24)-NG-Imp. II/73-384/74, dated the 8th May, 1974).
- (ii) Certain posts in Grades above 11 carrying greater responsibilities should be earmarked or created for Diploma Engineers and these should be filled on the basis of seniority-cum-fitness.
- (iii) 25% of the posts of Diploma Engineers should be placed in Grade 16. These posts should be filled on the basis of seniority-cum-fitness and subject to 10 years service and passing of the prescribed departmental examinations.
- (iv) 20% of the posts in Grade 17 should be reserved for promotion of Diploma Engineers in Grade 16 on the basis of

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selection for which standards and criteria should be laid down by the Departments concerned.

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In the light of the above quoted Memo, the respondents being Diploma holders are stated to be eligible for promotion to the posts of Electrical Engineers being Diploma Engineers in the service of the appellants on account of Clause (iv) of the Memo where 20% posts of Grade-17 should be reserved for promotion of Diploma Engineers in Grade-16 as such they were to be considered for promotion prior to the making of any advertisement for filling the said posts, which has not been complied with by the appellants and in this regard the learned counsel for the respondents has relied upon Section-4 of the Ordinance, which is reproduced herein below for ready reference: -

"4. Power of the Federal Government to issue directives.— The Federal Government may, as and when it considers necessary, issue directives to the Authority on matters of policy, and such directives shall be binding on the Authority, and if a question arises whether any matter is a matter of policy or not, the decision of the Federal Government shall be final."

From the perusal of the above mentioned Section, it is amply clear that the CAA is bound by the directives issued by the Federal Government on the matters of policy and if a question arises whether any matter is a matter of policy or not, the decision of the Federal Government shall be final. In view of the same, the said policy directive was binding upon the CAA under the aforementioned Section of the Ordinance. Furthermore, the assertion of the learned counsel for the appellants that after the enactment of the Ordinance the Memo had become redundant cannot sustain as the Ordinance itself provides a saving Section i.e., Section 25, which read as under: -

"25. Certain existing arrangements to continue.— All contracts and working arrangement made and all liabilities incurred by the Federal Government in connection with, or for the purpose of, the Department before

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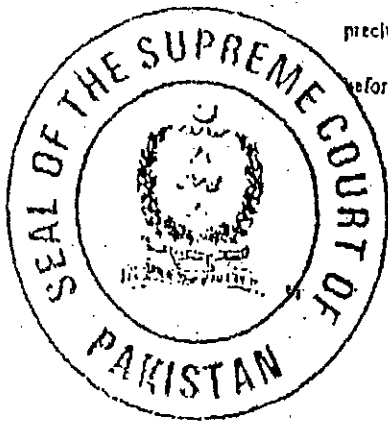
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the establishment of the Authority, shall be deemed to have been made or incurred by the Authority and have effect accordingly."

7. In the above perspective, we are of the considered view that the appellants, prior to making fresh recruitment through advertisement for the posts of Electrical Engineers, were bound to comply with the directive issued in the Memo and were under obligation to fill in 20% reserved seats through promotion of Diploma Engineers first. Therefore, we dismiss the instant appeal, however, with the following modification in the operative part of the impugned judgment, which reads as under: -

"A separate seniority lists shall be maintained by Civil Aviation Authority of Diploma Holders for group 5 (equivalent BS-11) and Pay Group 7 (equivalent BS-16). The terms of the directive of the Federal Government contained in the Office Memorandum dated 16.11.1974 shall be strictly adhered to and followed justly and fairly to redress the grievance of the respondents.

The above mentioned modification in the impugned order will not preclude the respondents from following their pending contempt proceedings before the High Court, which shall be decided on its own merits."



Ch. Anwar Zaheer Jamali, J
Ch. Fazl Ali Khan, J
Ch. Iftikhar Hussain Khan, J

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Not Approved for Reporting.

ISLAMABAD.
09.10.2013.
(Farrukh)

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No. WA/4(25)/74
GOVERNMENT OF PAKISTAN
MINISTRY OF FUEL, POWER AND NATURAL RESOURCES

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Islamabad, the 16th November, 1974.

OFFICE MEMORANDUM

Subject:--DEMANDS OF THE PAKISTAN DIPLOMA ENGINEERS FEDERATION

The undersigned is directed to say that the Pakistan Diploma Engineers Federation had placed certain demands before the Government. A Committee consisting of Federal and Provincial Government representatives was constituted to consider these demands and to make recommendations. The report of the Committee was placed before the Prime Minister and with his approval the following decisions have been taken:

- (i) The Diploma Engineers should be given Grade 11 to start with (This decision has already been given effect to vide Finance Division O. M. No. F. 1 (24)-NG-Imp. II/73-384/74, dated the 8th May, 1974).
- (ii) Certain posts in Grades above 11 carrying greater responsibilities should be earmarked or created for Diploma Engineers and these should be filled on the basis of seniority-cum-fitness.
- (iii) 25% of the total posts of Diploma Engineers should be placed in Grade 16. These posts should be filled on the basis of seniority-cum-fitness and subject to 10 years service and passing of the prescribed departmental examinations.
- (iv) 20% of the posts in Grade 17 should be reserved for promotion of Diploma Engineers in Grade 16 on the basis of selection for which standards and criteria should be laid down by the Departments concerned.
- (v) The decisions taken at the meeting convened by the Federal Minister for Education on 20-10-73 regarding establishment of two degree courses namely B. Tech. (Pass) and B. Tech. (Honours) for Diploma Engineers should be implemented as early as possible. Diploma Engineers should be given all possible encouragement and facilities such as study leave etc. for acquiring higher engineering education.
- (vi) The posts held by Diploma Engineers and which have lasted for more than 5 years and had not been created for specific durations or specific projects should be placed on permanent footing and the Diploma Engineers working against them should be confirmed immediately wherever they fulfil the requirements of initial recruitment and continuous satisfactory service.
- (vii) The Diploma Engineers should henceforth be called Sub Engineers.

2. The undersigned is to request that necessary action may please be taken to implement the above mentioned decisions.

Sd-
(MUHAMMAD SAEED)
Deputy Secretary to the Government of Pakistan
Tel No. 21466.

Attended

Muhammad Arshad Khan

TO:
ALL MINISTRIES/DIVISIONS IN FEDERAL GOVERNMENT
(5 copies each).

Copy for necessary action also forwarded to Chief Secretaries of all Provincial Government (10 copies each).

Muhammad Arshad Khan I.C.
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Office No. 33 Adjacent
District Bar Association

Sd-
(MUHAMMAD SAEED)
Deputy Secretary to the Government of Pakistan

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Government of Pakistan
Finance Division
(Regulations Wing)

(a) Imp/2001

Islamabad, the 4th September, 2001

OFFICE MEMORANDUM

Subject: REVISION OF BASIC PAY SCALES AND FRINGE BENEFITS OF CIVIL EMPLOYEES (BPS.1-22) OF THE FEDERAL GOVERNMENT (2001)

The President has been pleased to sanction, with effect from 1st December 2001, a Scheme, as detailed below, of the Basic Pay Scales, Allowances and Pensions, 2001 for the civil employees of the Federal Government in BPS 1 to BPS 22 paid from the civil Estimates and from the Defence Estimates respectively as shown in the following paragraphs.

PART I.--BASIC PAY SCALES AND ALLIED MATTERS.

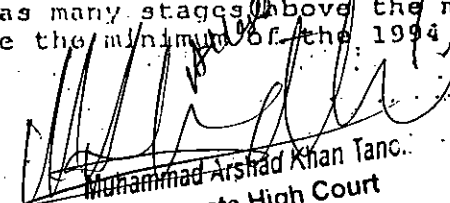
2. Basic Pay Scales. - The existing basic pay scales and the revised basic pay scales are shown in Annexure-I to this O.M.. The revised basic pay scales shall replace the existing Basic Pay Scales, 1994, and shall be effective from 1st December, 2001.

3. Discontinuation of Allowances. - The following allowances shall cease to be payable on introduction of the revised pay scales w.e.f.1-12-2001.

- i) Cost of Living Allowance to BS 1 to BS 22 @ 7% of basic pay.
- ii) Adhoc relief of Rs.300/- p.m. and Rs.100/- p.m. to BS 1 to 16 (inclusive of BPS-17 by virtue of Move Over).
- iii) Secretariat/Personal Allowance.

4. Special Additional Allowance. - Special Additional Allowance sanctioned vide Finance Division O.M.No.F.1(7)Imp/99 dated 23rd July 1999 shall be frozen at the level drawn as on date of issue of this O.M..

5. Initial Fixation of Pay. (1) Pay of the employees in service on 30.11.2001 shall be fixed at the stage in the revised pay scales which is as many stages above the minimum as the stage occupied by him above the minimum of the 1994 Basic Pay Scale.


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5. Pay Fixation on Promotion (2) The existing provisions regulating the fixation of pay in case of promotion from lower to a higher post shall continue to apply.

6. Selection Grade and Move Over. - Selection Grade in the scheme of Basic Pay Scales and Move Over scheme shall stand discontinued w.e.f. the date of issue of this O.M.

7. Pay Fixation of employees in Selection Grade and those who have Moved Over to higher scale. - Pay of an existing employee drawing pay by move over shall be fixed with reference to the pay scale of the post for the time being held by him. In case the employee was drawing pay in a Selection Grade, his pay will be fixed in the Selection Grade pay scale. The stage of fixation will be arrived at after allowing increments on notional basis in the original scale of the post or the Selection Grade, in 1994 Basic Pay Scales, upto the point of existing pay. Pay of the employees will then be fixed at the relevant stage in the revised pay scales 2001.

Example-I

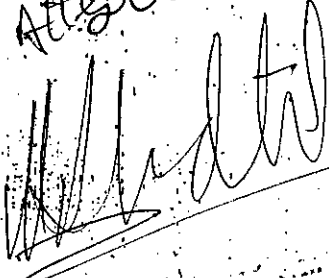
Assistant, BS-11 Selection Grade, BS-15, Moved Over BS-16 and in receipt of Pay of Rs.5490/- Pay will be fixed in BS-15 i.e. Selection Grade pay scale at Rs. 8320/- as under:

1994 Scale	Stage 15	Stage 16	Stage 17	Stage 18	Stage 19
	4845	5022	5199	5376	5553
2001 Scale	7260	7525	7790	8055	8320

Example-II

Pay fixation of an employee in BS-11 who has moved over to BS-14 and is in receipt of basic pay of Rs.4480/- will be fixed after allowing notional increments in BS-11 of 1994 Basic Pay Scales upto the stage of basic pay drawn. Pay in revised BPS-11 will be fixed at the corresponding stage of Rs. 6790/- as under:

BS-11 1994 Pay Scale	Stg 15	Stg 16	Stg 17	Stg 18	Stg 19	Stg 20	Stg 21	Stg 22	Stg 23	Stg 24
	3465	3501	3697	3813	3929	4045	4161	4277	4393	4509
BS-11 2001 Pay Scale	5215	5390	5565	5470	5915	6090	6265	6440	6615	6790

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Example-III

Pay fixation of an employee in BS-5 who has moved over to BS-11 and is, in receipt of basic pay of Rs.3465/- will be fixed after allowing notional increments in BS-5 of 1994 BPS upto the stage of basic pay drawn. Since basic pay of Rs.3465/- is beyond the 30 stages in notional BS-5, (1994 BPS), & resultantly more than the 30 stages of BPS 2001, therefore, his pay will be fixed at the notional 32nd stage i.e. at Rs.5300/- The difference of Rs.200/- (Rs.5300-5100) will be personal to him as under:-

BS-5	Stage-30	Stage-31	Stage-32
1994	3100	3446	3512
2001	5100	5200	5300

In such cases future increments upto a maximum of 3 years will also be allowed as personal to such employees.

Date of Increment:- Annual increment shall continue to be admissible subject to the existing conditions, on the 1st December each year.

9. Special Pays/Allowances for Offices:- The Special Pays/Allowances sanctioned to offices as percentage of Pay shall be discontinued on the introduction of revised pay scales w.e.f. 1-12-2001 and adjusted in future increments.

10. Advance Increments:- The existing scheme of advance increments is discontinued w.e.f. 1.12.2001. A fresh scheme, if any, will be introduced in due course.

PART II. - ALLOWANCES.

11. Conveyance Allowance:- The rates of Conveyance Allowance; and Motorcycle/Motor car maintenance allowance presently fixed with reference to pay drawn shall be increased and related to Basic Pay Scales as follows:

Sr.No.	Existing	Revised
i)	Government servants drawing pay in BS-16 (Gazetted) and above and maintaining motor car not registered for commercial purpose. Rs.355/-p.m.	BS-16 (Gazetted) & above Rs.620/-p.m.
ii)	Government servants drawing pay of Rs.3240/-per month and above other than those at (i) above. Rs.193/-p.m.	BS 11 and above Rs.340/-p.m.
iii)	Government servants drawing pay of Rs.1600/-p.m. and above but less than Rs.3240/-p.m. and maintaining Motorcycle/Scooter. Rs.130/p.m.	BS 1-10 maintaining Motor Cycle/ Scooter. Rs.230/-p.m.
iv)	Others. Rs.96/- per month	BS 1-10 Rs.170/-p.m.

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12. Daily Allowance. - Daily Allowance rates presently fixed with reference to pay drawn shall be increased and related to Basic Pay Scales as under: -

DPS	Special Rates Per day (Rs.)	Ordinary Rates Per day (Rs.)
1-4	110	80
5-11	120	100
12-16	200	100
17-18	350	320
19-20	450	400
21-22	550	450

13. Medical Allowance. - Medical Allowance to employees in BS.1-16 shall be increased from Rs.90/- p.m. to Rs.160/- p.m.

14. Computer Allowance. - The Computer Allowance shall be increased subject to the existing conditions of admissibility as under:

<u>Existing Rate</u>	<u>Revised Rate</u>
Rs.500/- p.m.	Rs.750/- p.m.
Rs.1000/- p.m.	Rs.1500/- p.m.

15. Special Pays/Allowances. - All the Special Pays and Allowances admissible on certain POSTS as percentage of Pay are revised subject to the following limits:

a) Special Pays/Allowances sanctioned @ 20% and above of Pay.

Revised
On existing rates subject to a maximum of Rs.2000/- p.m.

b) Special Pays/Allowances sanctioned @ 10% - 19% of Pay.

On existing rates subject to a maximum of Rs.1500/- p.m.

c) Special Pays/Allowances sanctioned @ 5% - 9% of Pay.

On existing rates subject to a maximum of Rs.1000/- p.m.

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PART III- PENSION AND COMMUTATION.

16. Pension.- The Government has made the following reforms in pension/commutation scheme w.e.f. 1.12.2001 in respect of pensioners of Federal Government including civilian paid from Defence Estimates as well as retired Armed Forces Personnel.

- a) Commutation Table shall be replaced by the new Commutation Table at Annexure-II to this Office Memorandum.
- b) Commutation upto 40% of gross pension shall be admissible at the option of the pensioner.
- c) The additional benefit of 2% - 10% for extra years of service after completion of 30 years of qualifying service in respect of Civil Pensioners shall be discontinued.
- d) The increase in pension @ 20% - 25% to Civil Pensioners allowed vide this Division's O.M.No. 4(1)-Reg. 6/99 dated 23.7.1999 shall be discontinued.
- e) The benefit of restoration of surrendered portion of pension in lieu of commutation/gratuity shall be withdrawn.
- f) In future, the increase in pension to the pensioners shall be allowed on net pension instead of gross pension.
- g) All the pensioners shall be allowed an increase in net pension (inclusive of dearness increases allowed in the past) as follows:-

Increase in net pension

- i) Pensioners who retired prior to the introduction of 1991 Basic Pay Scales. 15%
- ii) Pensioners who retired prior to the introduction of 1994 Basic Pay Scales but on or after the introduction of 1991 Pay Scales. 10%
- iii) Pensioners who retired on or after the introduction of 1994 Basic Pay Scales and upto the date of introduction of revised Basic Pay Scales i.e. 1-12-2001 5%

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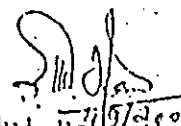
17. Option:- (a) All the existing civil employees (BPS 1 to 22) of the Federal Government shall within 45 days from the date of issue of this office memorandum, exercise an option in writing, addressed to the Audit Office concerned in the case of employees in BPS.16 and above and to the DDO concerned in the case of employees in BPS 15 and below, either to draw pay in the existing Basic Pay Scales of 1994 or in the Revised Basic Pay Scales and pension/ commutation scheme 2001, as specified in this O.M. Option once exercised shall be final.

(b) An existing employee as aforesaid, who does not exercise and communicate such an option within the specified time limit, shall be deemed to have opted to continue to draw salary in basic pay scales of 1994 and Pension/Commutation as per existing formulae.

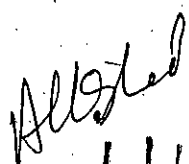
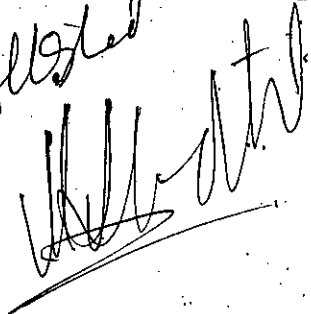
18. The government servant who will retire w.e.f. 1.7.2001 shall be given the benefit of revised pay scales on presumptive basis discounted by 5% increase in pension if availed, subject to the condition that all those who may like to avail this benefit should opt for the entire package i.e. revised scheme of Basic Pay Scales as contained in Part-I and revised package of pension as contained in Part-III of this O.M.

19. All existing rules/orders on the subject shall be deemed to have been modified to the extent indicated above. All existing rules/orders not so modified shall continue in force under this scheme.

20. Anomalies: An Anomalies Committee shall be set up in the Finance Division (Regulations Wing) to resolve the anomalies if any, arising in the implementation of this Office Memorandum.


(Abdul Rauf Malik)
Joint Secretary (R)

All Ministries Divisions/Department

Muzaffargarh
Advocate High Court
Office No. 33 Adjacent to
Distt Bar Association

7 P-30

ANNEXURE-II TO FINANCE DIVISION'S O.M.NO.P.1(5)Imp/2001, dated September 2, 2001
EXISTING AND REVISED PAY SCALES

COMPUTATION TABLE

Age next Birthday	No. of Years Purchased	Age next Birthday	No. of years Purchased
20	40.5044	51	17.6526
21	39.7341	52	17.0050
22	38.9653	53	16.3710
23	38.1974	54	15.7517
24	37.4307	55	15.1478
25	36.6651	56	14.5602
26	35.9006	57	13.9880
27	35.1372	58	13.4340
28	34.3750	59	12.8953
29	33.6143	60	12.3719
30	32.8551	61	11.8632
31	32.0974	62	11.3684
32	31.3412	63	10.8872
33	30.5869	64	10.4191
34	29.8343	65	9.9639
35	29.0841	66	9.5214
36	28.3362	67	9.0914
37	27.5908	68	8.6742
38	26.8482	69	8.2697
39	26.1099	70	7.8778
40	25.3728	71	7.4983
41	24.6406	72	7.1314
42	23.9126	73	6.7766
43	23.1840	74	6.4342
44	22.4711	75	6.1039
45	21.7592	76	5.7850
46	21.0530	77	5.4797
47	20.3555	78	5.1854
48	19.6653	79	4.9030
49	18.9841	80	4.6321
50	18.3129		

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Muhammad Arshad Khan Tanc
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Muhammad Arshad Khan Tanc
 Advocate High Court
 Office No: 33 Adjacent

P-31

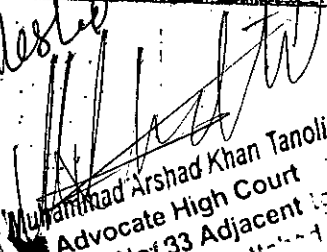
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**ANNEXURE-I TO FINANCE DIVISION'S O.M.NO.F.1(5)Imp/2001, dated September 4, 2001
EXISTING AND REVISED PAY SCALES**

PAY SCALES OF 1994 (CIVIL)

REVISED PAY SCALES, 2001 (CIVIL)

Scale	Min	Incr	Max	Stgs	Scale	Min	Incr	Max	Stgs
1	1245	35	1770	15	1	1070	55	3520	30
2	1275	44	1935	15	2	1915	65	3865	30
3	1320	50	2070	15	3	1980	75	4230	30
4	1360	58	2230	15	4	2040	85	4590	30
5	1400	66	2390	15	5	2100	100	5100	30
6	1440	73	2535	15	6	2160	110	5460	30
7	1480	81	2695	15	7	2220	120	5820	30
8	1540	88	2860	15	8	2310	130	6210	30
9	1605	97	3060	15	9	2410	145	6760	30
10	1660	107	3265	15	10	2490	160	7290	30
11	1725	116	3465	15	11	2590	175	7840	30
12	1830	130	3780	15	12	2745	195	8595	30
13	1950	144	4110	15	13	2925	215	9375	30
14	2065	161	4480	15	14	3100	240	10300	30
15	2190	177	4845	15	15	3285	265	11235	30
16	2535	197	5490	15	16	3805	295	12655	30
17	3880	290	7360	12	17	6210	465	15510	20
18	5085	366	8745	10	18	8135	585	19835	20
19	7750	385	11600	10	19	12400	615	24700	20
20	9195	440	13595	10	20	14710	950	28010	14
21	10190	545	15640	10	21	16305	1070	31285	14
22	10900	610	17000	10	22	17440	1250	34940	14

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 Muhammad Arshad Khan Tanoli
 Advocate High Court
 Office No 33 Adjacent to
 Dist Bpr Akhrotabad

NOTIFICATION

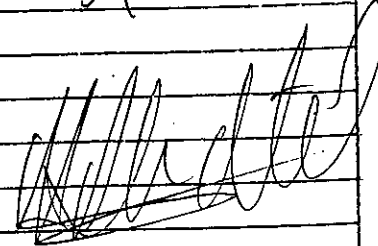
OFFICE OF CHIEF ENGINEER (S.O. 111)
PUBLIC HEALTH ENGINEERING DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

No. 19 /E-16/PHE, Dated 23/01/2016

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In pursuance of Section-8 (5) of the NWFP Civil Servants act 1973, the TENTATIVE seniority list of **Sub Engineers BPS-12** of Public Health Engg: Department, is notified as detail below.

S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
1	Muhammad Ilyas ✓	Fazal Razaq	Dir Upper	DAE (C)	08.09.1958	15.04.1982	06.05.1982	
2	Karamat Ullah ✓	Khan Azam	Bannu	DAE (C)	15.03.1961	18.05.1982	18.05.1982	
3	Laiq Zaman ✓	Gul Shaib Khan	Bannu	DAE (C)	27.01.1959	03.07.1982	23.06.1982	
4	Asif Farooq ✓	Karim Nawaz	Karak	DAE (C)	02.01.1960	22.11.1982	20.11.1982	
5	Inamul Haq	Lal Ghaffar	Karak	DAE (C)	18.03.1963	06.04.1983	06.04.1983	
6	Khurshid Iqbal	H. Abdul Rashid	Haripur	DAE (C)	03.01.1959	01.12.1984	20.11.1984	
7	Umer Hayat	H. Gulam Nabi	Bannu	DAE (C)	25.03.1962	24.11.1984	20.11.1984	
8	Hassan Khan	Sar Biland Khan	Malakand	DAE (C)	08.02.1963	22.11.1984	20.11.1984	
9	Arif Saeed	Amal Rehman	Karak	DAE (C)	03.04.1963	01.12.1984	20.11.1984	
10	Lajbar Khan	Zabata Khan	Mardan	DAE (C)	18.04.1963	01.12.1984	20.11.1984	
11	Falak Naz	Shah Nam Raza	Swat	DAE (C)	03.01.1957	31.12.1984	23.12.1984	
12	Muhammad Yousaf	Muhammad Ibrahim	D.I.Khan	DAE (M)	20.05.1964	25.04.1985	08.04.1985	
13	Muhammad Pervez	Faqir Muhammad	D.I.Khan	DAE (C)	01.10.1960	06.07.1985	03.07.1985	
14	Sahib Zarin	Mohayoud Din	Dir Lower	DAE (C)	22.07.1958	18.12.1985	18.12.1985	
15	Samiullah Jan	Danish Khan	Peshawar	DAE (C)	16.06.1959	18.12.1985	18.12.1985	
16	Muhammad Ali	Muhammad Zaman	Swat	DAE (C)	21.04.1964	26.12.1985	18.12.1985	
17	Muhammad Riaz	Muhammad Khan	Malakand	DAE (C)	01.01.1965	30.12.1985	18.12.1985	
18	Shahid Saeed	Saeed ur Rehman	Mansehra	DAE (C)	26.08.1965	23.12.1985	18.12.1985	
19	Allaud Din	Muhammad Ajun Khan	Mansehra	DAE (C)	21.06.1961	10.07.1986	09.07.1986	
20	Anwar Khan	Ghulam Khan	Mansehra	DAE (C)	06.04.1963	19.07.1986	09.07.1986	
21	S. Abid Hussain Shah	Syed Pir Zaman Shah	Abbottabad	DAE	13.03.1964	17.07.1986	09.07.1986	
22	Bashir Ahmad	Wazir Zada	Dir Lower	DAE (C)	08.12.1964	23.10.1986	23.10.1986	

Attested

 Muhammad Arshad Khan Tanc.
 Advocate High Court
 Office No: 33 Adjacent
 Distt Bar Abbottabad

P-33

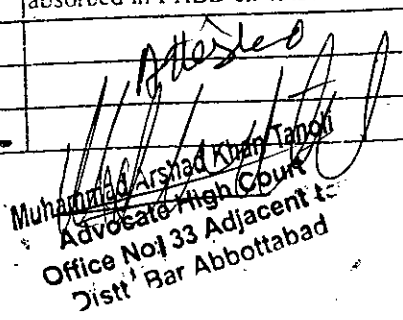
S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
23	Aziz ur Rehman	Mehmood Khan	Bannu	DAE (C)	15.12.1960	28.10.1981	18.04.1987	
24	Zoor Ali	Said Muhammad	FR Bannu	DAE (C)	05.03.1960	11.01.1982	18.04.1987	
25	Mekail Khan	Muhammad Shebli	Bannu	DAE (C)	09.10.1961	27.12.1982	18.04.1987	
26	Najeeb ur Rehman	Abdur Rehman	Karak	DAE (C)	02.02.1963	09.02.1983	18.04.1987	
27	Khubz ur Rehman	Mir Abas	FR Bannu	DAE (C)	10.03.1964	18.05.1987	18.05.1987	
28	Abbas Khan	Ali Akbar Khan	Abbottabad	DAE (C)	01.02.1966	18.05.1987	18.05.1987	
29	Rashid Ahmad	H. Muhammad Saddique	Lakki	DAE (C)	14.03.1959	09.06.1987	09.06.1987	
30	Said Faisal	Syed Wahid Shah	Swabi	DAE (C)	03.01.1959	29.05.1979	23.08.1987	absorbed in PHED on 23.8.1987
31	Muhammad Shafiq Shah	Abdul Hamid Shah	SWA	DAE (C)	01.05.1963	20.10.1987	20.10.1987	
32	Abdur Rehman	Mehar Dil Khan	Tank	DAE (C)	06.09.1963	11.10.1987	08.10.1987	
33	Nisar Ali	Haji Gujar Khan	Swat	DAE (C)	01.04.1964	10.10.1987	10.10.1987	
34	Muhammad Yaseen	Faqir Shah	Swabi	DAE (C)	04.03.1964	14.10.1987	14.10.1987	
35	Muhammad Ashraf	Amir Zada	Peshawar	DAE (C)	02.11.1967	18.10.1987	18.10.1987	
36	Islam Gul	M. Sahib Gul	Karak	DAE (C)	10.09.1963	26.10.1987	21.10.1987	
37	Muhammad Younis	Rehan ud Din	Sawbi	DAE (C)	02.01.1959	29.08.1989	29.08.1989	
38	Khalid Wahab	Dost Muhammat	Karak	DAE (C)	15.07.1961	29.08.1989	29.08.1989	
39	Karim Nawaz	Gul Daraz	D.I.Khan	DAE (C)	01.03.1962	09.06.1985	29.08.1989	
40	Irshad Ahmad	Malik Elahi Bakhsh	D.I.Khan	DAE (C)	28.03.1962	03.03.1986	29.08.1989	
41	Bahre Karam	Rahmat Shah	Malakand	DAE (C)	15.04.1958	15.04.1986	29.08.1989	
42	Khalid Afzal	Mir Sahib Jan	NWA	DAE	20.02.1960	29.08.1989	29.08.1989	
43	Muhammad Yousaf Jan	Abdullah Jan	D.I.Khan	DAE (C)	01.04.1961	18.10.1987	29.08.1989	
44	Muhammad Hamayun	Dure Marjan	Karak	DAE (C)	10.09.1963	29.08.1989	29.08.1989	
45	Muhammad Kamal	Hazrat Jamal	Mardan	DAE (C)	01.04.1962	13.01.1988	29.08.1989	
46	Sikandar Azam	Amir Daraz Khan	NWA	DAE (C)	15.11.1961	12.12.1989	06.12.1989	
47	Muhammad Iqbal	Abdul Rahim	Bajaur	DAE (C)	01.08.1964	11.12.1989	06.12.1989	
48	Muheet Khan	Rias Khan	Karak	DAE (C)	08.06.1965	10.12.1989	06.12.1989	
49	Syed Zia ur Rehman	S. Hidayat ur Rehman	Mardan	DAE (C)	01.04.1965	09.12.1989	06.12.1989	
50	Hazrat Hussain	Muhammad Hanif	Swat	DAE (C)	15.03.1960	22.08.1987	06.12.1989	
51	Sardar Ijaz Anwar	Muhammad Yaqoob	Abbottabad	DAE (C)	01.04.1966	09.12.1989	06.12.1989	

Attested

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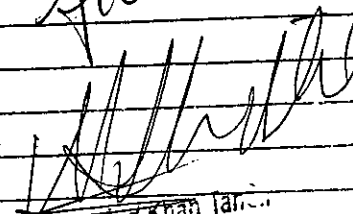
Muhammad Arshad Khan
Advocate High Court
Office No: 33 Adjacent to
Dist Bar Abbottabad

S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
52	Ifrikhar Ahmad	Dr. M.Zakir Khan	Mansehra	DAE (C)	02.05.1965	09.12.1989	06.12.1989	
53	Akhtar Hussain	Amir Amanullah Khan	Swat	DAE (C)	05.01.1968	14.12.1989	06.12.1989	
54	Muhammad Tahir	Aibat Khan	Kohat	DAE (C) Bs.C	16.03.1965	31.03.1990	26.03.1990	
55	Walayat Said		Dir Lower	DAE (C)	15.09.1967	05.04.1990	05.04.1990	
56	Syed Haleem Shah	S.Imdad Hussain Shah	Mansehra	DAE (C)	11.04.1965	01.04.1990	26.03.1990	
57	Misal Khan		D.I.Khan	DAE (C)	15.07.1966	06.05.1990	06.05.1990	
58	Imdad Hussain Shah	Syed M.Afzal Shah	Mansehra	DAE (C)	25.04.1971	14.11.1992	12.11.1992	
59	Muhammad Amjad		Bannu	DAE (C)	18.04.1969	16.09.1993	16.09.1993	
60	Nasir Nawaz Khan	M.Nawaz Khan	Mansehra	DAE (C)	01.02.1973	06.03.1996	26.02.1996	
61	Mehboob ur Rehman	Habib ur Rehman	Haripur	DAE	10.04.1971	11.04.1996	26.02.1996	
62	Jehanzeb	Shadi Gul	NWA	DAE@BE(E)	01.04.1971	27.02.1996	26.02.1996	
63	Amir Zada	Bahadar Khan	Mardan	DAE (C)	14.05.1965	04.03.1996	26.02.1996	
64	Ishfaq Ahmad	Zarbat Shah	FR Kohat	DAE (C)	01.05.1970	26.02.1996	26.02.1996	absorbed in PHED on 13.3.2008
65	Abdul Hameed	Abdul Latif	Kohat	D.A.E	18.09.1959	24.11.1988	19.05.2008	absorbed in PHED on 13.3.2008
66	Intizar Muhammad		Swabi	DAE (C)	20.12.1960	22.11.1988	19.05.2008	absorbed in PHED on 13.3.2008
67	Dilawar Khan	Muhammad Rehman	SWA	DAE (C)	23.02.1962	22.11.1988	29.03.2008	absorbed in PHED on 13.3.2008
68	Muhammad Ilyas	Khanza Gul	NWA	DAE (C)	25.03.1962	28.11.1988	22.05.2008	absorbed in PHED on 13.3.2008
69	Aziz ur Rehman		Khyber	DAE (C)	08.10.1962	22.11.1988	19.05.2008	absorbed in PHED on 13.3.2008
70	Muhammad Rais	Hazrat Khan	SWA	DAE (C)	20.04.1963	26.11.1988	31.05.2008	absorbed in PHED on 13.3.2008
71	Tariq Khan		Swat	DAE (C)	01.04.1964	22.11.1988	19.05.2008	absorbed in PHED on 13.3.2008
72	Muhammad Nazif	Muhammad Hussain	Nowshera	DAE (C)	05.01.1964	30.11.1988	28.03.2008	absorbed in PHED on 13.3.2008
73	Abdali Shah	Haji Sufaid Shah	Malakand	DAE (C)	01.02.1966	26.11.1988	26.03.2008	absorbed in PHED on 13.3.2008
74	Arif Qayum Khan	Abdul Qayum	Bannu	DAE (C)	12.10.1966	23.11.1988	29.03.2008	absorbed in PHED on 13.3.2008
75	Amin Gul		Malakand	DAE (C)	15.10.1966	22.11.1988	19.05.2008	absorbed in PHED on 13.3.2008
76	Asghar Hussain	Gul Akbar	Khyber	DAE (C)	14.11.1968	22.11.1988	31.03.2008	absorbed in PHED on 13.3.2008
77	Mislah-ud-Din	Sharif Ullah	Dir Lower	DAE (C)	20.02.1965	24.11.1988	26.03.2008	absorbed in PHED on 13.3.2008
78	Atta Muhammad	Muhammad Younas	Mansehra	DAE (C)	10.04.1971	08.09.1997	01.07.2008	
79	Raheel Shahzad	Muhammad Farid	Mansehra	DAE (C)	16.09.1976	30.08.1997	01.07.2008	
80	Sheikh Islam ud Din	Sheikh Nizam-ud-Din	D.I.Khan	DAE (C)	08.03.1961	29.08.1987	11.02.2009	


 Muhammad Arshad Khan
 Advocate High Court
 Office No. 33 Adjacent to
 Dist. Bar Abbottabad

S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
81	Farid Ullah	Sherin Dad	Bannu	DAE (C)	10.01.1962	01.09.1987	11.02.2009	
82	Mumtaz Khan	Zardad Khan	Bannu	DAE (C)	01.03.1963	27.12.1987	11.02.2009	
83	Imtiaz Muhammad	Hazrat Wali	Swabi	DAE (C)	09.01.1971	20.12.1994	11.02.2009	
84	Shujaul Mulk	Shahi Mulk	Swat	DAE (C)	01.04.1970	03.10.1995	11.02.2009	
85	Shahid Ayaz	Mir Shad Ali	Karak	DAE (M)	03.03.1963	07.02.1990	11.02.2009	
86	Farman Ullah	Farid Gul	Bannu	DAE (C)	04.04.1971	26.09.1995	11.02.2009	
87	Abdul Salam	Mir Khalim Khan	D.I.Khan	DAE (C)	25.08.1963	02.07.1995	30.07.2009	
88	Shoaib Ullah	Amir Ullah	Charsadda					
89	Hamid Ali	Sattar Khan	Charsadda					
90	Imdad Ullah	Ihsan Ullah	Dir Lower					
91	Asad Zia	Khayal Muhammad	Mardan					
92	Anwar Hussain	Gul Year	Swat					
93	Kashif Ali Baloch	Mashkoo Hussain	D.I.Khan					
94	Aftab Muhammad	Taj Muhammad Khan	Charsadda					
95	Waseem Khan	Saleem Khan	Abbottabad					
96	S.Noor Mohazzm Shah	Syed Azam Shah	Haripur					
97	Rahim Ullah	Mir Ali Khan	Lakki					
98	Muhammad Safiullah	Haji Akhtar Zaman	Bannu					
99	Muhammad Ishaq	Muddasir	Malakand					
100	Arshd Hussain	Saadat Hussain	Kurram					
101	Raqib Ullah	Abdul Qadir Khan	Bajaur					
102	Adnan	Umar Zada	Swat					
103	Misbah Ullah	Muhammad Zahir Shah	Mohmand					
104	Afsar Ali	Mia Wali Khan	F.R.Bannu					
105	Wadiuat ud Din	Aurangzeb	Abbottabad					
106	Niaz Ali	Mirzali Khan	Lakki		12.06.1984			
107	Naheem Khan	Ali Khan	Abbottabad		01.04.1985			
108	Zia ur Rehman	Haji Luruf ur Rehman	Bannu		15.02.1985			
109	Aamir Zeb	Aurang Zeb	Abbottabad		16.06.1991			

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Attested


Muhammad Arshad Khan
Advocate High Court
Office No: 33 Adjacent
Distt. Bar Abbottabad

S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
110	Farman ud Din	Zaheer ud Din	NWA		02.02.1985			
111	Mansoor Khan	Noor ul Amin	Mardan		06.04.1986			
112	Ifikhar Ahmad	Shah Jee Muhammad	Dir Lower		12.04.1992			
113	S.Muhammad Kamran	Dost Muhammat	Peshawar		08.04.1990			
114	Amjid Hussain	Ali Zaman	Mansehra		13.04.1986			
115	Syed Sarwar Shah	Muhammad Zaman	Mohmand		24.03.1984			
116	Javid Anwar	Gul Noor Khan	Dir Upper		20.03.1991			
117	Muhammad Ismail	Amir Nawaz	Charsadda		10.04.1988			
118	Muhammad Adnan	Siraj Gul	Charsadda		03.02.1991			
119	Majeed Ullah	Mujahid	Swat		03.04.1986			
120	Mukhtar Ullah	Watanistan	Mohmand		19.04.1984			
121	Ziarat Gul	Munir Khan	Mohmand		06.10.1982			
122	Saleem Khan	Muhammad Ali Khan	Hangu		05.04.1987			

41

Chief Engineer (South)

Endstt: No. 19/E-16/PHE

Dated Peshawar the

28 / 01 / 2016

Copy of the Seniority List is forwarded for information and intimation of descrepancy if any to the:-

- 1 - Chief Engineer (North) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar.
- 2 - Chief Engineer (FATA) Works & Service Deaprtment Peshawar
- 3 - All Superintending Engineers in Public Health Engg: Department Settled/FATA Khyber Pakhtunkhwa.
- 4 - All Executive Engineers in Public Health Engg: Department Settled/FATA Khyber Pakhtunkhwa.
- 5 - Section Officer (Estt) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar

Chief Engineer (South)
 Muhammad Arshad Khan
 Advocate High Court
 Office No 33 Adjacent to
 Dist Bar Abbottabad

بعدالت سرسبز سٹیٹ بینک

عنوان: صدر سٹیٹ بینک گورنمنٹ سٹیٹ بینک

منجانب: ریٹائرمنٹ

نوعیت مقدمہ: سرسبز سٹیٹ بینک

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کارروائی متعلقہ آن مقام

سر اسرار خان سٹری ریٹائرمنٹ

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختم مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جز و بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت ناش بصدیقہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: 26 جولائی 2016

بمقام: محمد اسرار

Accepted

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No: 33 Adjacent to
Dett. Dar. Abbottabad

Appeal No 711/2016

Syed Abid Hussain, Sub Engineer,
Public Health Engg: Deptt: Abbottabad.

..... (Appellant)

Versus

1. Govt: of Khyber Pakhtunkhwa, Secretary
Public Health Engg: Department Peshawar.
2. Chief Engineer Public Health Engg: Department
Govt: of Khyber Pakhtunkhwa Peshawar
3. Superintending Engineer, PHE Circle Abbottabad..... (Respondents)

Parawise Comments of the Respondent 1 to 3

Respectfully sheweth

PRELIMINARY OBJECTIONS.

1. That the appellant has got no locus standi.
2. That the appellant has not come to this Honourable tribunal with clean hands.
3. The appeal is time barred.
4. The appeal is not maintainable in its present form and shape.
5. That the appeal is bad for mis - joinder and non-joinder of necessary parties.
6. That the appellant is estopped by his own conduct to file the instant appeal.
7. That the appellant has got no cause of action.
8. That this Honourable Service Tribunal has no jurisdiction to entertain the present appeal.

PARA-WISE REPLY:

1. Pertain to record.
2. No Comments.
3. Incorrect. As per Service Rules of Public Health Engg: Department, passing of departmental examination for Sub Engineers is pre-requisite for promotion to the rank of Assistant Engineer BPS-17 on his turn on seniority-cum-fitness basis from amongst the Sub Engineers (ANNEXURE-1).

4. Incorrect and not admitted. The Govt has discontinued grant of selection grade of all the employees categorically including the Sub Engineers as well as others employees from BS-11 to BS-16 with effect from 27.10.2001 vide Para-7 of Finance Department Khyber Pakhtunkhwa Notification No. FD (PRC) 1-1/2001 dated 27-10-2001 (ANNEXURE-II). The policy of discontinuation of selection grade was uniform and applicable to all employees.

GROUND:

- a. Incorrect. The Govt has discontinued grant of selection grade from BPS-11 to BPS-16 to Sub Engineers as well as to all other categories with effect from 27.10.2001 vide Finance Department Khyber Pakhtunkhwa No. FD(PRC)1-1/2001 dated 27-10-2001. No such precedent is available in the Department, wherein selection grade was granted to similar employees.
- b. Incorrect and not admitted. After promulgation of Basic Pay Scale 2001, the selection grade has been discontinued with effect from 27.10.2001 on the basis of new Basic Pay Scales. While prior to his discontinuation of selection grade the procedure was in vogue but the same was granted on the basis of seniority-cum-fitness and on his turn. The petitioner again concealing facts from this Honourable Court as he was not due for the same at that time.
- c. Incorrect. The Govt has abolished the grant of selection grade to Sub Engineer qualifying departmental examination to senior scale Sub Engineers BPS-11 to BPS-16 and now 20% promotion quota from the post of Sub Engineers (BPS-11) to the post Sub Divisional Officer (BPS-17) is allocated in the Service Rules of the department, who has passed the departmental examination and having 10 years service on seniority-cum-fitness basis on his turn. The appellant will be promoted from (BPS-11) to (BPS-17) instead of BPS-16 on the seniority-cum-fitness on his turn as the appellant now stands at Serial No.21 as the seniority list of the department issued on 30.3.2016 (ANNEXURE-III).
- d. As per Para-C above.
- e. Incorrect. The appellant has not deprived of his due rights and dealt according to law and service rule of the department and cannot be considered due to prevailing rules/policy of the Provincial Government as well as his seniority position .
- f. Incorrect and not admitted. The appellant again concealing facts from the Honourable Tribunal as he is not deserved for the grant of Senior Scale (B-16) on the implementation of Revised Basic Pay Scales, 2001 and even at that time he was junior most. Thus he does not come to this court with no clean hands but demanding illegal benefits for which he does not deserve

3

- g. Incorrect. The appellant by filing the instant petition is building pressure on the department which is contrary to natural justice and law.
- h. Incorrect. The Govt has abolished/discontinued the facility of selection grade to all category including Sub Engineers with effect from 27.10.2001 and the same has been replaced with Basic Pay Scales, 2001. Thus one hand, the appellant is receiving financial benefits on the same whereas on other hand, the appellant is demanding dual favour from the court.
- i. Incorrect. The appellant has no merit filling the instant appeal contrary to prevailing rules. The facility has since been abolished/discontinued by the Govt. The appellant demanding for illegal benefit which are not covered under the existing Service Rules on the department. Furthermore the appellant is junior most as he is presently at Serial No.21 of seniority and will be promoted on his turn.

In view of above facts, is humbly prayed that the appeal of the appellant may very graciously be dismissed with cost being devoid of any merit.

Chief Engineer (South)
PHED Peshawar
(Respondent No.2 and 3)

Secretary
to Govt. of Khyber Pakhtunkhwa,
PHE Department Peshawar
(Respondent No.1)

(14)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ABBOTTABAD CAMP

Service Appeal No 711/2016

Syed Abid Hussain Shah, Sub Engineer,

..... (Appellant)

Public Health Engg: Deptt: Abbottabad.

Versus

- 1. Govt: of Khyber Pakhtunkhwa, Secretary
Public Health Engg: Department Peshawar.*
- 2. Chief Engineer Public Health Engg: Department
Govt: of Khyber Pakhtunkhwa Peshawar*
- 3. Superintending Engineer, PHE Circle Abbottabad..... (Respondents)*

AFFIDAVIT

I, Nematullah Khan, Chief Engineer (South), Public Health Engineering Department, Khyber Pakhtunkhwa Peshawar do hereby solemnly affirm that the contents of the accompanying written statements are true and correct to the best of my knowledge and nothing has been concealed from this honourable tribunal.


DEPONENT

Dated Peshawar, the July 31, 2013

NOTIFICATION

No. SO(E)PHE/1-9/2009. In pursuance of the provisions contained in sub-rule(2) of rule 3 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Government of the Khyber Pakhtunkhwa is pleased to direct that in the Public Health Engineering Department's (Recruitment and Appointment) Rules, 2010, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

- i) 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 the Assistant Engineers, Assistant Design Engineers and Sub Divisional Officers, who possess Degree in B.E/B.Sc Engineering (Civil) from a recognized University with five years service as such and have passed the Departmental Professional Examination."
- ii) Against serial No.4, in column No.5, for the existing entries, the following shall be substituted, namely;
 - (a) five per cent, by promotion, on the basis of seniority-cum-fitness, from amongst the direct graduate Sub Engineers, who possess Degree in B.E/B.Sc Engineering (Civil) from a recognized University with five years service as such;
 - (b) five per cent, by promotion, on the basis of seniority-cum-fitness, from amongst the in service graduate Sub Engineers, who possess Degree in B.E/B.Sc Engineering (Civil), from a recognized University with five years service as such;
 - (c) three per cent, by promotion, on the basis of seniority-cum-fitness, from amongst Sub Engineers, who possess Degree in B.Tech Honis. (Civil), from a recognized University with five years service as such;
 - (d) twenty per cent, by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers, who possess Diploma in Civil / Electrical / Mechanical Technology with ten years service as such and have passed the Departmental Examination; and
 - (e) sixty-seven per cent by initial recruitment".

SECRETARY

6

ENDST: No. SO(E)PHE/1-9/2009 Dated Peshawar, the July 31, 2013

Copy forwarded to the:-

1. All Administrative Secretaries to the Govt. of Khyber Pakhtunkhwa Province.
2. Secretary to Governor Khyber Pakhtunkhwa Province.
3. Principal Secretary to Chief Minister Khyber Pakhtunkhwa Province.
4. PS to Chief Secretary Khyber Pakhtunkhwa Province.
5. Accountant General Khyber Pakhtunkhwa Province Peshawar.
6. Additional Accountant General (PR), Pakistan Revenue Sub Office Peshawar.
7. Chief Engineer (South) PHE Department.
8. Chief Engineer (North) PHE Department.
9. Chief Engineer (FATA) Communication & Works Department.
10. Secretary Public Service Commission Khyber Pakhtunkhwa.
11. Registrar Supreme Court of Pakistan / Peshawar High Court / Service Tribunal Peshawar.
12. All Superintending Engineers PHE Circles / Executive Engineers PHE Divisions / Sub Divisional Officers PHE Khyber Pakhtunkhwa.
13. Manager Government Stationary & Printing Department.
14. PS to Minister for PHE Department.
15. PS to Secretary PHE Department.
16. Office Order File

Muhammad Yunas
31/7/13

(MUHAMMAD YUNAS)
SECTION OFFICER (ESTT)

pay revision 2001

(7)

Annex-II

GOVERNMENT OF N.W.F.P.
FINANCE DEPARTMENT

No. FD(PCR)1-1/2001
Dated Peshawar the, October 27, 2001.

From:-

The Secretary to Government of NWFP,
Finance Department.

To

1. All Administrative Secretaries to Government of NWFP.
2. The Senior Member Board of Revenue, NWFP.
3. The Secretary to Governor NWFP, Peshawar.
4. The Secretary, Provincial Assembly, NWFP.
5. All Heads of Attached Departments NWFP.
6. All District Coordination Officers/Political Agents/ District and Sessions Judges NWFP.
7. The Registrar, Peshawar High Court, Peshawar.
8. The Chairman, NWFP, Public Service Commission.
9. The Chairman, NWFP, Service Tribunal, Peshawar.
10. The Secretary Board of Revenue, NWFP, Peshawar.

Subject:-

REVISION OF BASIC PAY SCALES AND FRINGE BENEFITS OF CIVIL EMPLOYEES (BPS 1 - 22) OF THE N.W.F.P. GOVERNMENT (2001).

Sir,

I am directed to state that the Governor of the NWFP has been pleased to sanction, with effect from December 1, 2001, a scheme of the Basic Pay Scales, Allowances and Pensions, 2001 for the Civil employees of the Government of NWFP in BPS 1 to BPS 22 as detailed below:

PART I - BASIC PAY SCALES AND ALLIED MATTERS.

2. **BASIC PAY SCALES :-** The existing Basic Pay Scales and the revised Basic Pay Scales are shown in Annexure-I to this letter. The revised basic pay scales shall

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replace the existing Basic Pay Scales, 1994, and shall be effective from 1st Dec 2001.

3. DISCONTINUATION OF ALLOWANCES :- The following allowances shall cease to be payable on introduction of the revised pay scales with effect from 01-12-2001:

- i. Cost of Living Allowance to BPS-1 to BPS 22 @ 7% of basic pay.
- ii. Adhoc relief of Rs. 300/-p.m. and Rs. 100/- p.m. to BPS-1 to BPS 16 (Inclusive of BPS-17 by virtue of Move Over).
- iii. Secretariat Allowance/Personal Allowance if any/Adhoc Relief as recompense for Secretariat/Personal Allowance.

4. SPECIAL ADDITIONAL ALLOWANCE :- Special Additional Allowance sanctioned vide Finance Department's letter No. FD(PRC)1-1/99 dated 26-7-1999 shall be frozen at the level drawn as on date of issue of this letter.

5. INITIAL FIXATION OF PAY :- Pay of the employees in Government service on 30-11-2001 shall be fixed at the stage in the revised pay scales which is many stages above the minimum as the stage occupied by him above the minimum of the 1994 Basic Pay Scale.

6. PAY FIXATION ON PROMOTION :- The existing provisions regulating the fixation of pay in case of promotion from lower to a higher post shall continue to apply.

7. SELECTION GRADE AND MOVE OVER :- selection Grade in the scheme of Basic Pay Scales and Move Over scheme shall stand discontinued w.e.f the date of issue of this letter.

8.

PAY FIXATION OF EMPLOYEES IN SELECTION GRADE AND THOSE WHO HAVE MOVED OVER TO HIGHER SCALE.

Pay of an existing employee drawing pay by move over shall be fixed with reference to the pay scale of the post for the time being held by him. In case the employee was drawing pay in Selection Grade, his pay will be fixed in the Selection Grade pay scale. The stage of fixation will be arrived at after allowing increments on notional basis in the original scale of the post or the Selection Grade, in 1994 Basic Pay Scales, upto the point of existing pay. Pay of the employees will then be fixed at the relevant stage in the revised pay scales 2001.

EXAMPLE I

Assistant, BPS-11 Selection Grade, BPS 15, Move over BPS 16 and in receipt of Pay of Rs. 5490/- Pay will be fixed in BPS-15 i.e Selection Grade pay scale at Rs. 8320/- as under :-

	Stage 15	Stage 16	Stage 17	Stage 18	Stage 19
1994 Scale	4845	5022	5199	5376	5553
2001 Scale	7260	7525	7790	8055	8320

EXAMPLE II

Pay fixation of an employee in BPS-11 who has moved over to BPS-14 and is in receipt of basic pay of Rs. 4480/- will be fixed after allowing notional increments in BPS-11 of 1994 Basic Pay Scales upto the stage of basic pay drawn. Pay in revised BPS-11 will be fixed at the corresponding stage of Rs. 6790/- as under:-

BPS-11	Stage 15	Stage 16	Stage 17	Stage 18	Stage 19	Stage 20	Stage 21	Stage 22	Stage 23	Stage 24
1994 Pay Scale	3465	3581	3697	3813	3929	4045	4164	4277	4393	4509
2001 Pay Scale	5215	5390	5565	5740	5915	6090	6265	6440	6615	6790

(10)

EXAMPLE- III

Pay Fixation of an employee in BPS-5 who has moved over to BPS-11 and is in receipt of basic pay of Rs. 3465/- will be fixed after allowing notional increments in BPS-5 of 1994 BPS upto the stage of basic pay drawn. Since basic pay of Rs. 3465/- is beyond the 30 stages in notional BPS-5, (1994 BPS), and resultantly more than the 30 stages of BPS-2001, therefore, his pay will be fixed at the notional 32nd stage i.e. at Rs.5300/-. The difference of Rs. 200/- (Rs.5300 - 5100) will be personal to him as under:-

	Stage- 30	Stage - 31	Stage - 32
BPS-5 1994	3380	3446	3512
BPS-5 2001	5100	5200	5300

In such cases future increments upto a maximum of 3 years will also be allowed as personal to such employees.

9. DATE OF INCREMENT:- Annual increment shall continue to be admissible subject to the existing conditions, on the 1st December each year.

10. SPECIAL PAYS/ALLOWANCES FOR OFFICES :- The Special Pays/ Allowances sanctioned to offices as percentage of pay shall be discontinued on the introduction of revised pay scales w.e.f 1-12-2001 and adjusted in future increments.

11. ADVANCE INCREMENTS :- The existing scheme of advance increments is discontinued w.e.f. 1-12-2001. A fresh scheme, if any, will be introduced in due course.

(11)

ment and Deputy Secretary (Regulation), Finance Department shall be set up to solve the anomalies, if any, arising out of implementation of new package.

Yours obediently


(HAFIZ MATIULLAH)
Additional Secretary (Reg./Admn)

Endst. No. FD(PRC)1-1/2001

Dated Peshawar the, October 27, 2001.

1. All Autonomous & Semi Autonomous Bodies in NWFP
2. The Secretary Finance Department, Government of the Punjab, Sindh and Balochistan, Lahore, Karachi & Quetta.
3. The Secretary Finance Department, Azad Government of the State of Jammu and Kashmir, Muzaffarabad.


(ABDUL LATIF)
Section Officer (SR-I)

Endst. No. FD(PRC)1-1/2001

Dated Peshawar the, October 27, 2001.

1. The H.Qs. I.I. Corps Peshawar
2. The Accountant General, NWFP, Peshawar.
3. All district/Agency Accounts Officers in NWFP.
4. The Treasury Officer, Peshawar.
5. The Private Secretary to Finance Minister, NWFP.
6. The P.S. to Secretary, PAs to Additional Secretaries/Deputy Secretaries in Finance Department.
7. All Section/Budget Officers in Finance Department, NWFP
8. The Director, Local Fund Audit, NWFP, Peshawar.


(ABDUL LATIF)
Section Officer (SR-I)

(12)

ANNEXURE-1 TO FINANCE DEPARTMENT'S LETTER NO. FD(PRC)1-1/2001
DATED THE OCTOBER 27, 2001

EXISTING AND REVISED PAY SCALES.

PAY SCALES OF 1994 (CIVIL)					REVISED PAY SCALES, 2001 (CIVIL)				
Scale	Min	Incr	Max	Stags	Scale	Min	Incr	Max	Stags
1	1245	35	1770	15	1	1870	55	3520	30
2	1275	44	1935	15	2	1915	65	3865	30
3	1320	50	2070	15	3	1980	75	4230	30
4	1360	58	2230	15	4	2040	85	4590	30
5	1400	66	2390	15	5	2100	100	5100	30
6	1440	73	2535	15	6	2160	110	5460	30
7	1480	81	2695	15	7	2220	120	5820	30
8	1540	88	2860	15	8	2310	130	6210	30
9	1605	97	3060	15	9	2410	145	6760	30
10	1660	107	3265	15	10	2490	160	7290	30
11	1725	116	3465	15	11	2590	175	7840	30
12	1830	130	3780	15	12	2745	195	8595	30
13	1950	144	4110	15	13	2925	215	9375	30
14	2065	161	4480	15	14	3100	240	10300	30
15	2190	177	4845	15	15	3285	265	11235	30
16	2535	197	5490	15	16	3805	295	12655	30
17	3880	290	7360	12	17	6210	465	15510	20
18	5085	366	8745	10	18	8135	585	19835	20
19	7750	385	11600	10	19	12400	615	24700	20
20	9195	440	13595	10	20	14710	950	28010	14
21	10190	545	15640	10	21	16305	1070	31285	14
22	10900	610	17000	10	22	17440	1250	34940	14

Staff

AG

From :- The Secretary to Govt. of NWFP,
Finance Department.

To

1. All Administrative Secretaries to Government of NWFP.
2. The Senior Member, Board of Revenue, NWFP.
3. The Secretary to Governor NWFP, Peshawar.
4. The Secretary, Provincial Assembly, NWFP.
5. All Heads of Attached Department NWFP.
6. All District Coordination Officers/Political Agents/
District and Sessions Judges NWFP.
7. The Registrar, Peshawar High Court, Peshawar.
8. The Chairman, NWFP, Public Service Commission.
9. The Chairman, NWFP, Services Tribunal, Peshawar.
10. The Secretary, Board of Revenue, NWFP, Peshawar.

SUBJECT:- C O R R I G E N D U M .

Sir,

I am directed to refer to this Department's letter of even number dated November 15, 2001 and to state that the figures "1-12-2001" appearing in line 8 (eight) of column 2 against sub para (ii) of para I in the above cited circular may be read as 1-12-2000.

Yours obediently

(Signature)
19/11/2001

(ABDUL LATIF)
SECTION OFFICER (SR.I)

ENDST. NO. FD(PRC) 1-1 / 2001

Dated Peshawar the, November 19, 2001.

A copy is forwarded for information to :-

1. All Autonomous/Semi Autonomous Bodies/ Corporations in NWFP.

ENDST. NO. FD(PRC) 1-1/ 2001

Dated Peshawar the, November 19, 2001.

(Signature)
19/11/2001
SECTION OFFICER (SR.)

A copy is forwarded for information to :-

1. The Accountant General, NWFP, Peshawar.
2. All District/Agency Accounts Officers in NWFP.
3. The Treasury Officer, Peshawar.
4. The Private Secretary to Finance Minister, NWFP.
5. The P.S to Secretary, PAs to Additional Secretaries/Deputy Secretaries in Finance Department.
6. All Section/Budget Officers in Finance Department.
7. The Director, Local Fund Audit, NWFP, Peshawar.

(Signature)
19/11/2001
SECTION OFFICER (SR.I)

(14)

Annex-III

(28)

NOTIFICATION

**OFFICE OF CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGINEERING DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR**

No. 06 /E-16/PHE, Dated 30/3 /2016

In pursuance of Section-8.(5) of the NWFP Civil Servants act 1973, the Final seniority list of Sub Engineers (BPS-12) of Public Health Engg: Department, as it stood on **29.02.2016**, is notified as detail below.

S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
1	Muhammad Ilyas	Fazal Razaq	Dir Upper	DAE (C)	08.09.1958	15.04.1982	06.05.1982	
2	Karamat Ullah	Khan Azam	Bannu	DAE (C)	15.03.1961	18.05.1982	18.05.1982	
3	Laiq Zaman	Gul Shaib Khan	Bannu	DAE (C)	27.01.1959	03.07.1982	23.06.1982	
4	Asif Farooq	Karim Nawaz	Karak	DAE (C)	02.01.1960	22.11.1982	20.11.1982	
5	Aziz-ur-Rehman	Muhammad Azeem	Karak	DAE (C)	02.06.1962	26.03.1983	26.03.1983	In light of advice of Establishment Department and this office order No.04/E-9/PHE, dated 16.02.2016 his name is deleted from B.Tech holder Sub Engineer Seniority List and insereted in the seniorty list of DAE Sub Engineer
6	Inamul Haq	Lal Ghaffar	Karak	DAE (C)	18.03.1963	06.04.1983	06.04.1983	
7	Khurshid Iqbal	H.Abdul Rashid	Haripur	DAE (C)	03.01.1959	01.12.1984	20.11.1984	
8	Hassan Khan	Sar Biland Khan	Malakand	DAE (C)	08.02.1963	22.11.1984	20.11.1984	
9	Arif Saeed	Amal Rehman	Karak	DAE (C)	03.04.1963	01.12.1984	20.11.1984	
10	Lajbar Khan	Zabata Khan	Mardan	DAE (C)	18.04.1963	01.12.1984	20.11.1984	
11	Falak Naz	Shah Nam Raza	Swat	DAE (C)	03.01.1957	31.12.1984	23.12.1984	
12	Muhammad Yousaf	Muhammad Ibrahim	D.I.Khan	DAE (M)	20.05.1964	25.04.1985	08.04.1985	
13	Muhammad Pervez	Faqir Muhammad	D.I.Khan	DAE (C)	01.10.1960	06.07.1985	03.07.1985	
14	Sahib Zarin	Mohayoud Din	Dir Lower	DAE (C)	22.07.1958	18.12.1985	18.12.1985	
15	Samiullah Jan	Danish Khan	Peshawar	DAE (C)	16.06.1959	18.12.1985	18.12.1985	

S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
16	Muhammad Ali	Muhammad Zaman	Swat	DAE (C)	21.04.1964	26.12.1985	18.12.1985	
17	Muhammad Riaz	Muhammad Khan	Malakand	DAE (C)	01.01.1965	30.12.1985	18.12.1985	
18	Shahid Saeed	Saeed ur Rehman	Mansehra	DAE (C)	26.08.1965	23.12.1985	18.12.1985	
19	Allaud Din	Muhammad Ajun Khan	Mansehra	DAE (C)	21.06.1961	10.07.1986	09.07.1986	
20	Anwar Khan	Ghulam Khan	Mansehra	DAE (C)	06.04.1963	19.07.1986	09.07.1986	
21	S.Abid Hussain Shah	Syed Pir Zaman Shah	Abbottabad	DAE	13.03.1964	17.07.1986	09.07.1986	
22	Bashir Ahmad	Wazir Zada	Dir Lower	DAE (C)	08.12.1964	23.10.1986	23.10.1986	
23	Aziz ur Rehman	Mehmood Khan	Bannu	DAE (C)	15.12.1960	28.10.1981	18.04.1987	
24	Zoor Ali	Said Muhammad	FR Bannu	DAE (C)	05.03.1960	11.01.1982	18.04.1987	
25	Mekail Khan	Muhammad Shebli	Bannu	DAE (C)	09.10.1961	27.12.1982	18.04.1987	
26	Najeeb ur Rehman	Abdur Rehman	Karak	DAE (C)	02.02.1963	09.02.1983	18.04.1987	
27	Khubz ur Rehman	Mir Abas	FR Bannu	DAE (C)	10.03.1964	18.05.1987	18.05.1987	
28	Abbas Khan	Ali Akbar Khan	Abbottabad	DAE (C)	01.02.1966	18.05.1987	18.05.1987	
29	Rashid Ahmad	H.Muhammad Saddique	Lakki	DAE (C)	14.03.1959	09.06.1987	09.06.1987	
30	Said Faisal	Syed Wahid Shah	Swabi	DAE (C)	03.01.1959	29.05.1979	23.08.1987	absorbed in PHED on 23.8.1987
31	Muhammad Shafiq Shah	Abdul Hamid Shah	SWA	DAE (C)	01.05.1963	20.10.1987	20.10.1987	
32	Abdur Rehman	Mehar Dil Khan	Tank	DAE (C)	06.09.1963	11.10.1987	08.10.1987	
33	Nisar Ali	Haji Gujar Khan	Swat	DAE (C)	01.04.1964	10.10.1987	10.10.1987	
34	Muhammad Yaseen	Faqir Shah	Swabi	DAE (C)	04.03.1964	14.10.1987	14.10.1987	
35	Muhammad Ashraf	Amir Zada	Peshawar	DAE (C)	02.11.1967	18.10.1987	18.10.1987	
36	Islam Gul	M.Sahib Gul	Karak	DAE (C)	10.09.1963	26.10.1987	21.10.1987	
37	Muhammad Younis	Rehan ud Din	Sawbi	DAE (C)	02.01.1959	29.08.1989	29.08.1989	
38	Khalid Wahab	Dost Muhammat	Karak	DAE (C)	15.07.1961	29.08.1989	29.08.1989	
39	Karim Nawaz	Gul Daraz	D.I.Khan	DAE (C)	01.03.1962	09.06.1985	29.08.1989	
40	Irshad Ahmad	Malik Elahi Bakhsh	D.I.Khan	DAE (C)	28.03.1962	03.03.1986	29.08.1989	
41	Bahre Karam	Rahmat Shah	Malakand	DAE (C)	15.04.1958	15.04.1986	29.08.1989	

16

S.No	Name	Father Name	Home District	Qulification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
120	Sáleem Khan	Muhammad Ali Khan	Hangu	B.Tech-H ©	05.04.1987	-	13.08.2013	

33

Endstt: No. 06/E-16/PHE

Dated Peshawar the

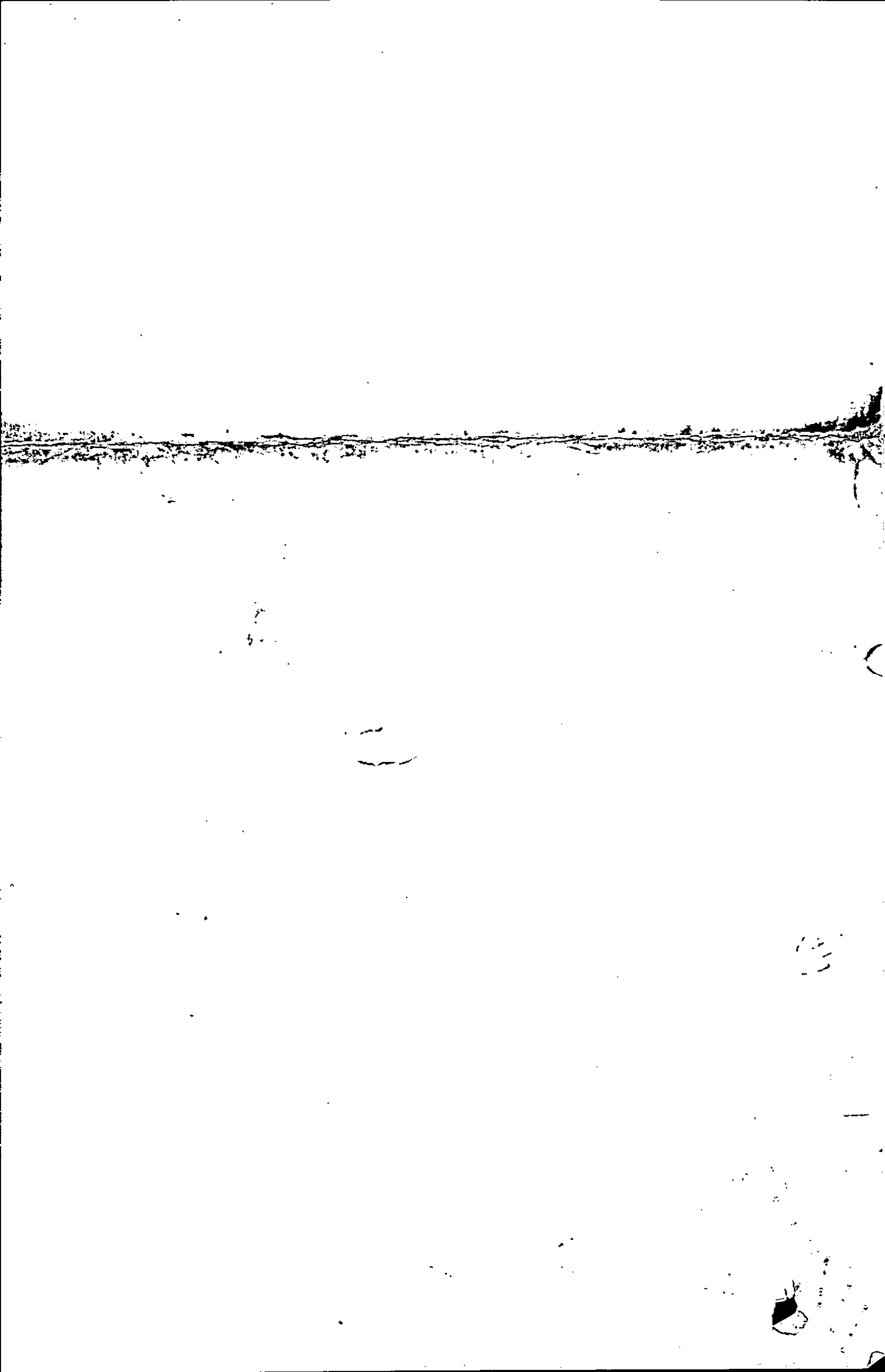
30/03/2016

Chief Engineer (South)

Copy of the Seniority List is forwarded for information and intimation of descricency if any to the: -

- 1 - Chief Engineer (North) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar.
- 2 - Chief Engineer (FATA) Works & Service Deaprtment Pehawar
- 3 - All Superintending Engineers in Public Health Engg: Department Settled/FATA Khyber Pakhtunkhwa.
- 4 - All Executive Engineers in Public Health Engg: Department Settled/FATA Khyber Pakhtunkhwa.
- 5 - Section Officer (Estt) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar

Chief Engineer (South)



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

Service Appeal No. 711/2016.

Syed Abid Shah, Sub-Engineer, Public Health Engineer Department,
Abbottabad.

....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Public Health Engineering
Department, Khyber Pakhtunkhwa, Peshawar & others.

....RESPONDENTS

REJOINDER ON BEHALF OF APPELLANT

INDEX

S. No.	Description	Page Nos.	Annexure
1.	Rejoinder alongwith affidavit	1 to 5	
2.	Copy of letter of respondent No.2 addressed to respondent No.1 dated 21/01/2016	6-7	"A"
3.	Copy of letter dated 02/08/2011	8	"B"

....APPELLANT

Dated: 24/8 /2017

Through

(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

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

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....RESPONDENTS

SERVICE APPEAL

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth;-

REJOINDER ON PRELIMINARY OBJECTIONS;-

1. Para No.1 to 4 of the comments are incorrect and denied. That the subject matter of the appellant relates to the terms and conditions of service. Hence, the appellant is entitled for grant of senior scale.
2. Para No.5 to 8 are incorrect and denied. As stated above that terms and conditions of service are

involved. Therefore, the Honourable Tribunal has jurisdiction to entertain the instant writ petition. Besides, as per law, necessary parties have been arrayed as respondents.

REJOINDER ON FACTS:-

1. Para No.1 & 2 need no reply.
2. Para No.3 is correct to the extent of promotion from Sub-Engineer to the rank of Assistant Engineer BPS-17 on the basis of seniority cum fitness. Rest of the para is incorrect. In fact, the appellant is entitled to be granted senior scale from BPS-11 to BPS-16 w.e.f 2004.
3. Para No.4 is incorrect and denied. It is settled that there is a difference between selection grade and senior scale. In this regard, letter of respondent No.2 addressed to respondent No.1 dated 21/11/2016 refers. Copy of letter of respondent No.2 addressed to respondent No.1 dated 21/01/2016 is attached as Annexure "A". It is further clarified that selection grade and not senior

scale has been discontinued in revised pay scale 2001.

REJOINDER ON GROUNDS:

- a. Para "a" of the comments is incorrect and denied. Detailed reply has already been given in para No.3 above.
- b. Para "b" is incorrect and denied. It is further clarified that only selection grade has been discontinued and not senior scale in basic pay scale 2001.
- c. Para "c" is correct to the extent of evaluation of selection grade and rest of the para is not relevant in the case of appellant, hence denied.
- d. Reply as per Para "c".
- e. Para "e" is incorrect and denied.
- f. Para "f" is incorrect and denied. In this regard, Govt. letter No. SO(ESH)PHED/4-53/B/2010 dated

02/08/2011 is refers. Copy of letter dated 02/08/2011 is attached as Annexure "B".

- g. Para "g" is incorrect and denied. The appellant through service appeal wants to have his right established. Hence, he has a right to agitate the matter for at jurisdiction before the Honourable Tribunal.
- h. Para "h" is incorrect and denied.
- i. Para "T" is also incorrect and denied.

In view of the above, it is prayed that, service appeal of the appellant may graciously be accepted as prayed for.


...APPELLANT

Dated: 24/8 /2017

Through

(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

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

Service Appeal No. 711/2016

Syed Abid Shah, Sub-Engineer, Public Health Engineer Department,
Abbottabad.

....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Public Health Engineering
Department, Khyber Pakhtunkhwa, Peshawar & others.

....RESPONDENTS

REJOINDER ON BEHALF OF APPELLANT

AFFIDAVIT

I, Syed Abid Shah, Sub-Engineer, Public Health Engineer Department,
Abbottabad, do hereby affirm and declare that the contents of foregoing
rejoinder are true and correct to the best of my knowledge and belief and
nothing has been suppressed from this Honourable Court.


DEPONENT



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**OFFICE OF THE CHIEF ENGINEER (NORTH)
PUBLIC HEALTH ENGINEERING DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR**

1-Police Road, Peshawar Ph#091-9211554-091-9211494.

No. 30/182/PHE (N)

Dated Peshawar the 21/11/2016

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Public Health Engineering Department,
Peshawar.

Annex A

SUBJECT:- GRANT OF SENIOR SCALE (BPS-16) TO THE DIPLOMA HOLDER SUB ENGINEERS IN PHED.

Enclosed please find herewith an appeal received from Sub Engineers for Grant of Senior Scale for favour of your kind perusal and necessary action please.

That grant of Senior Scale to the Sub Engineers was sanctioned as a result of approval of Charter of Demands by the Prime Minister of Pakistan presented by the Pakistan Diploma Holder Engineers Federation during the Year 1974. As a result of consensus among all the federating unit and central Government, a notification was issued vide letter No. WA/4(25)/74 Islamabad dated: 16 November 1974. (Annexure- A). Subsequently all Provincial Governments adopted all the facilities agreed in the notification ibid. Under Para (iii) of said notification it was envisaged that 25% of the Total posts of Diploma Engineers should be placed in Grade-16. These posts should be filled on the basis of Seniority cum fitness with Ten years' service and passing of the prescribed Departmental Examination.

Accordingly a separate tier of Senior Scale Sub Engineer was created and Service Rules were amended by the then Government of KP to make allowance for the said facility and lay down method of appointment against it. Copy of Service Rules then in vogue are attached (Annex-B). During the year 1987, the Government of Khyber Pakhtunkhwa introduced scheme of selection grade for various categories of Govt. Servants. However, this newly introduced facility was altogether a different benefit extended to the Government Servant than what was approved for Sub Engineers vide above cited arrangement. With the introduction of new pay scale in the year 2001, the scheme of Selection Grade was discontinued. The KP Finance Bill/Act 2001 did not indicate discontinuation of Senior Scale of Sub Engineer as it was neither the will of legislature to do so nor legislators mixed it with the Selection Grade.

However, unfortunately as result of advice by the Finance Department vide letter No.(SOFR)/FD/16/2/2000 dated: Peshawar 19/2/2011, the Senior Scales were declared analogous to Selection Grade and were ordered to be discontinued.

Ever since the discontinuation of this only opportunity of promotion, the Sub Engineer Community is running from post to pillar for its revival. Their stance, *prima facie* seems genuine as scheme of selection grade and senior scale were two separate facilities.

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The following contrast duly tabulated will indicate the same:

S#	Description	Selection Grade for all other categories of employees	Senior Scale of Sub Engineers
i	Year of Sanction	1987	1974
ii	Length of service	Not Required	10 Years
iii	Experience	Not Required	10 Years
iv	Departmental Exam	Not Required	Departmental/Professional Examination was required
v	Per centum of strength allowed the benefit	33%	25%
vi	Status	Discontinued through Finance Bill/Act through Budget 2001-2002.	Not discontinued by the Provincial Assembly yet incorrect advice issued for its discontinuation.
vii	Duties	No change	After getting Senior Scale most of the incumbents were given charge of the posts of Sub Divisional Officers BPS-17 in public interest.
viii	Seniority list	No Separate seniority list was required to be maintained of the incumbent allowed Selection Grade	Separate Seniority list was maintained for senior scale Sub Engineers in BPS-16.

In this regard Supreme Court of Pakistan in its Judgment dated 19-10-2013 held that "the terms of the directives of the Federal Government contained in the office memorandum vide letter No.WA/4(25)/74 Islamabad dated:16 November 1974 shall be strictly adhered to and followed justly and fairly to redress the grievance of respondents" The copy of Judgment dated:19/10/2013 is Attached as Annexure-C).

Keeping in the above legal and factual position as well as difficulties being faced by the Sub Engineers community, it is proposed that Senior Scale of Sub Engineers may be allowed to be continued as it was in vogue at the time of its revocation i.e. on 30/6/2001.


Chief Engineer (North)

GOVERNMENT OF KHYBER PUKHTUNKHWA
PUBLIC HEALTH ENGG. DEPARTMENT

Annex - B

No.SO(Estt)/PHED/4-53/B/2010
Dated Peshawar, the August 02, 2011

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department Peshawar

P-8

Subject: GRANT OF SELECTION GRADE / SENIOR SCALE (BPS-16) TO DIPLOMA
HOLDER SUB ENIGNEERS (BPS-11) OF PHE DEPARTMENT

Dear Sir,

I am directed to refer to this department letter of even number dated 27th June 2011 on the subject noted above and to state that 18-No Diploma holder Sub Engineers (BS-11) of PHED were due for grant of Selection Grade/Senior Scale Sub Engineer (BPS-16) during the year 2000-01.

2. According to the former Service Rules of PHE Department, the method of promotion of Diploma holder Sub Engineers to the Senior Scale Sub Engineer (B-16) was as under:-

"25% of the total number of posts of Diploma Holder Sub Engineer shall form the cadre of the Senior Scale Sub Engineer and shall be filled-in by selection on merit with due regard of seniority from amongst the Sub Engineers of the department, who have passed the departmental examination and have 10-years service as such"

3. Due to abolition of PHED and its mержence in the defunct Works & Services Department during the year 2001, no senior rank PHE related officer i.e. Chief Engineer or administrative Secretary was existing, therefore, the staff of the said department remained neglected and could not be able to get their due right of selection grade.

4. Though the facility of selection grade was discontinued by the Government after 2001, yet a case for the grant of Selection Grade/Senior Scale (BS-16) in respect of PHE Sub Engineers was considered by the DPC in its meeting held on 31.12.2004 wherein it was decided that the administrative Department may refer the case to Finance Department for obtaining their advice regarding grant of senior scale/selection grade with retrospective effect (Copy of the minutes attached). The defunct W&S Department did not take up the case with Finance Department for the reasons highlighted in Para-3 above.

5. Now the PHE Department has been re-established since November 2009 and its employees are persistently insisting for consideration of their selection grade through public representatives and other different sources including courts. The Department took up the case with Establishment Department for seeking their advice in the matter. The Establishment Department vide letter dated 04.11.2010 (copy enclosed) requested to approach the Finance Department for clarification of the case. Accordingly the Finance Department was requested for their advice in the matter vide letter dated 10.11.2010 (copy enclosed). The Finance Department vide letter dated 19.02.2011 (copy enclosed) regrets its inability to accede to the request of this department.

6. It is worth mentioning that the facility of Selection Grade/Senior Scale (BS-16) to the Diploma Holder Sub Engineers (BS-11) has also been granted by the defunct W&S Department vide Orders dated 04.09.2003, 19.04.2004 and 13.08.2009 (Copies enclosed for ready reference). A statement showing tentative financial implications amounting to Rs.13.200 million to be involved thereon is also enclosed herewith please.

7. In view of above, it is requested that the Finance Department may review its advice earlier communicated vide letter dated 19.02.2011 regarding grant of Selection Grade/Senior Scale (BS-16) to the Diploma Holder Sub Engineers (BS-11) of this department on the analogy of defunct Works & Service Department.

Yours faithfully

Shabbir Ahmad Awan
(SHABBIR AHMAD AWAN)
SECTION OFFICER (ESTT)

ENDST: OF EVEN NO. & DATE

Copy forwarded for information to the:-

1. Special Assistant to Chief Minister Khyber Pakhtunkhwa Peshawar.
2. PS to Secretary PHE Department Peshawar

Shabbir Ahmad Awan
SECTION OFFICER (ESTT)