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**IN THE PESHAWAR HIGH COURT, PEHSAWAR**  
(Contempt jurisdiction)

COC No. 350-P/2022  
In Writ Petition No. 2707-P/2021

Shaukatullah Shah

Versus

Ejaz Hussain Ansari and others

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Deputy Registrar  
27 AUG 2022

Applicants  
through *[Signature]*  
Abdul Rauf Rohaila,  
Senior Advocate Supreme Court.  
Samad Hassnain  
Arzoo-e-Sahar,  
Advocate High Court

*[Signature]*  
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**IN THE PESHAWAR HIGH COURT, PESHAWAR**

(Contempt jurisdiction)

COC No. 350-P/2022  
In Writ Petition No. 2707-P/2021

Shaukatullah Shah,  
Communication and Works Department, Peshawar.  
..... Applicant

Versus

1. Ejaz Hussain Ansari,  
Secretary, Communication and Works Department,  
Government of Khyber Pakhtunkhwa, Peshawar.
2. Zulfiqar Ahmed,  
Secretary, Establishment Department,  
Government of Khyber Pakhtunkhwa, Peshawar.
3. Flt. Lieutenant, Iftikhar Ahmed Shahoo,  
Former Secretary, Establishment Department,  
Government of Khyber Pakhtunkhwa, Peshawar.  
..... Respondents

**APPLICATION UNDER ARTICLE 204 OF CONSTITUTION  
OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 READ WITH  
SECTION 3 AND 5 OF CONTEMPT OF COURT ORDINANCE, 2003**

ATTESTED

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26 AUG 2022

Respectfully Sheweth:-

The applicant humbly submits as under:-

1. That the applicant holds B. Tech (Honos) Degrees and serving in Communication and Works Department, as Sub-Divisional Officers, filed Writ Petition No. 2707-P/2021 in this honourable court seeking directions the official respondents for reservation of 20% quota for promotion to the post of Executive Engineer BPS-18.
2. That a glance at the documents filed by the applicant and parawise comments will reveal that matter is lingering on due to malafide and highly objectionable attitude of official respondents who have deliberately been delaying the completion of amendment in the recruitment rules allocating quota for the b. Tech Degree Holders.

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Deputy Registrar  
27 AUG 2022

3. That Writ Petition filed by the applicant and WP No. 1539-P/2021 finally came up for hearing on 24-3-2022 and this honourable court decided the same. Paragraph No. 11 of the judgment is reproduced hereunder for ready reference:-

II. We, therefore, direct the Committee so constituted vide Notification dated 7-9-2021 to abide by the said notification because one of its TORs was "*The Committee shall finalize its recommendations with viable proposals for perusal of the competent authority within 30 days*". Albeit despite laps of above 8 months, the matter has not yet been finalized. Accordingly, the Committee is directed to finalize its recommendations within 60 days positively.

4. That a meeting of high level Committee was held on 20-4-2022 and after lengthy discussions, the committee unanimously recommended that C&W Department may review its existing rules by providing opportunity of promotion to B-Tech (hons) degree holders in line with rules of other departments including Irrigation, Energy and Power, PHE Department.
5. That it is matter of record that it was proposed to hold meeting of SSRC meeting to be held on 29-7-2022 and it was postponed to 5<sup>th</sup> August, 2022 and again adjourned with no date for holding SSRC meeting whereas this honourable through order dated 24-3-2022 has categorically directed to decide the matter within 60 days.
6. That the applicant will be retired on 28-8-2022 whereas Provincial selection Committee has been scheduled in the first week of September, 2022 whereas as per seniority list, the applicant is at serial No. 2 of the seniority list of B. Tech (Hons) but efforts and persuasion for promotion is hanging since 2017.

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26 AUG 2022

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7.


That the applicant has personally visited the respondents to comply with the orders and judgment of this honourable court dated 24-3-2022 but the matter is being delayed on one pretext or other. Almost more than 5 months (150) days have elapsed but still the respondents have no attention to implement the judgment and directions issued by this honourable court.

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8. That the refusal of the respondents is in clear derogation of the specific orders passed by this honourable court on 24-3-2022, therefore, the respondents have exposed themselves to be proceeded under the provision of Article 204 of the Constitution of Islamic Republic of Pakistan, 1973 read with section 3 and 5 of the Contempt of Court Ordinance, 2003.
9. That since the stance, attitude and conduct of the respondents is in clear violation of the specific order of this honorable Court. The respondents in the circumstances have tried to disregard and intentionally violated the implementation of orders passed by this honorable Court.
10. That the respondents in the present application are pretending to be above the law and do not bother to act upon the clear directions of this honorable Court passed on 24-3-2022.

It is therefore most humbly prayed that on acceptance of this application, the respondents may be summoned, charged sheeted and sentenced for committing the offence of Contempt of Court in accordance with Article 204 of Constitution of Islamic Republic of Pakistan, section 3 and 5 of the Contempt of Court Ordinance, 2003.

Any other appropriate remedy not specifically mentioned may also be granted deem appropriate in the circumstances.

  
**ATTESTED**

  
Applicant,  
through 

Abdul Rauf Rohaila,  
Senior Advocate Supreme Court.

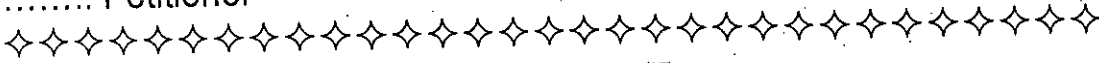
**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.**

COC No:- 350-f -P/2022  
In  
WP No:- 2707-P/2021

Shaukat Ullah Shah  
..... Petitioner

**Versus**

Ijaz Hussain Ansari & others  
..... Respondents



**AFFIDAVIT**

I, Shaukat Ullah Shah S/o Syed Yaqoob R/o Assistant Engineer Civil & Works Department, Government of Khyber Pakhtunkhwa, (The petitioner) do hereby solemnly affirm and declare on oath that the contents of this accompanying contempt of court petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Identified by

Abdur Rauf Rohaila  
Senior Advocate Supreme Court

DEPONENT

CNIC No:- 11201-0376771-9 ✓

Cell No:- 0333-9125822

**ATTESTED**

FILED  
25 AUG 2022

16782  
Certified that the above stated contents of the affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.  
25 Aug  
Syed Yaqoob  
Shaukat Ullah  
Engr  
Abdur Rauf Rohaila  
25/8/22

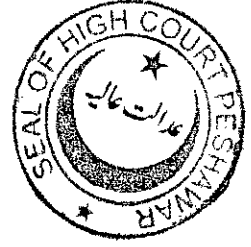


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BEFORE THE HONORABLE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No:- \_\_\_\_/2021



1. Shaukat Ullah Shah  
Assistant Engineer  
Communication & Works Department  
Government of Khyber Pakhtunkhwa

2. Muhammad Ghazanfar Ullah  
Sub Divisional Officer  
Communication & Works Department  
Government of Khyber Pakhtunkhwa  
VERSUS

1. Govt. of Khyber Pakhtunkhwa  
Through Chief Secretary  
Civil Secretariat, Peshawar

2. Govt. of Khyber Pakhtunkhwa  
Through Secretary Establishment & Administrative Department  
Civil Secretariat, Peshawar

3. Govt. of Khyber Pakhtunkhwa  
Through Secretary Law & Parliamentary Affairs Department  
Civil Secretariat, Peshawar

4. Govt. of Khyber Pakhtunkhwa  
Through Secretary Communication & Works Department  
Civil Secretariat, Peshawar

ATTESTED

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

Respectfully Sheweth

Briefly fact giving rise to present petition are as under:

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EXAMINER  
Peshawar High Court

FACTS

1. That the petitioners are law abiding and respectable citizen of Pakistan and having fundamental rights as guaranteed by the Constitution of Islamic Republic of Pakistan, 1973 (hereinafter referred to as "Constitution").
2. That the petitioners having Bachelors of Technology (hereinafter referred to as "B.Tech(Hons) were initially appointed as Sub Engineers (RPC-11) in

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Communication & Works Department (Respondent No.4) and periodically promoted to the next higher scales up to the post of Sub-Divisional Officer BPS-17).

3. That the petitioners after rendering almost 32 Years of service in the Department of Respondent No.4 are the senior most SDOs with B.Tech(Hons) degree in the seniority list maintained by the department.
4. That the Pakistan Engineering Council is an autonomous body and its functions are enumerated by the Act 1976. Grant of accreditation to the Engineering program of Universities and registration of engineer is the sole duty of the Pakistan Engineering Council whereas the National Technology Council (hereinafter referred to as "NTC") is a body delegated by Higher Education Commission to regulate the technology related programs.
5. That the Hon'ble Supreme Court of Pakistan in Suo Motu Review Petition No 52 of 1993 reported as Fida Husain Vs. The Secretary, Kashmir Affairs and Northern affairs Division, Islamabad and another (PLD 1995 SC 701) has held that *the Government had the exclusive domain to decide, whether any particular qualification would be considered sufficient for promotion from any particular grade to a higher grade and that government is vested with the power to change such policy from time to time, whereas Pakistan engineering council has exclusive domain to decide, as to whether a particular qualification could be equated with another academic qualification but it has no power to say that a civil servant/employee holding a particular academic qualification could not be promoted from a particular grade to a higher grade.*

(Copy of Review Petition No 53 of 1993 is Attached as "Annexure A")

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EXAMINER  
Peshawar High Court



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6. That the High Education Commission vide letter dated 21-05-2007 clarified equivalency of the B.Tech (Hons) Degree at par with B.E/B.Sc Engineering Degree for the purpose of employment in light of the decision taken by the University Grants Commission in 39<sup>th</sup> meeting held on 12-02-1998.

(Copy of Higher Education Commission letter dated 21-05-2007 is attached as Annexure "B").

7. That in pursuance of the Judgment of Apex Court in Sou-Moto Petition No 52 of 1993 and clarification of High Education Commission, Respondent No 4 carried out amendment in NWFP Civil Servants ( Appointment, Promotion and Transfer ) Rules by reserving quota for promotion of B.Tech(Hons) to the post of SDO-17 including the petitioners in year 2016.

8. That the petitioner filed representation before Respondent No 4 on 15-08-2017 for amendment in the Recruitment Rules-Reservation of 20percent Quota for promotion of B.Tech(Hons) Degree Holder SDOs(BPS-17) to the Post of XEN (BPS-18) and subsequently Respondent No 3 vide letter dated 24-10-2017 advised Respondent No 4 to make amendment in the recruitment rules and to reserve 20% quota for promotion of B.Tech(Hons) SDO(BPS-17) to the post of Executive Engineer(BPS-18) . It is to be noted that Respondent No 4 being Chairman of Standing Service Rules Committee convened meeting on 28-11-2017 but amendments were not approved in KP( Appointment, Promotion and Transfer Rules 2010 and the same are pending approval by Respondent No.4 for no reason.

(Copy of , Representation dated 15-08-2017, Letter by Law, Parliamentary Affairs & Human Rights Departments dated 24-10-2017& Working Paper is attached as Annexure "C, C1, ")

**ATTESTED**

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EXAMINER  
Peshawar High Court



9. That Respondent No 2 & 3 Vide letter dated 28 -01-2021 & 3-02-2021 advised Respondent No.4 to place before SSRC amendments in the appointment and recruitment Rules, 2010 of Communication & Works Department but to deprive petitioners from promotion to BPS-18, Respondent No 4 being Chairman of SSRC is reluctant to convene SSRC meeting and this long delay is against the principle of natural justice hence effective upon rights of the petitioners.

(Copy of Letter Establishment and Admin Department dated 28-01-2021 & Letter of Law, Parliamentary Affairs & Human Rights Department dated 03-02-2021 As Annexure "D & D1")

10. That the Finance department vide letter dated 17-02-2021 created 596 posts in the Communication & Works Department (Respondent No 4) including post of XEN and alike categories of BPS-18 and the petitioners being senior most in the seniority list serving SDOs in BPS-17 are eligible for Promotion to (BPS-18).

(Copy of creation of 596 posts in Communication & Work Department dated 17-02-2021 as Annexure "E")

11. That the petitioners have time and again approached Respondents for their promotion and granting 20 percent Quota being qualified B.Tech(Hons) engineers to the Post of XEN and other alike categories of BPS-18 but with no fruitful result therefore the petitioners have no other alternate remedy but to invoke the Constitutional Jurisdiction of this Honorable Court inter alia on the following grounds

#### GROUND

A Firstly the petitioners are entitled to be considered for promotion being B.Tech(Hons) degree holder engineers to the Post of Executive Engineers

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Peshawar High Court

**ATTESTED**

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and alike post of BPS-18 and refusal thereof is illegal, discriminated and not binding upon the rights of the petitioner.

- B. Secondly, the Government of Sindh vide notification dated 19.03-2014 amended Sindh Civil Servants ( Appointment, Promotion and Transfer) Rules 1974 wherein 20percent quota was fixed for B.Tech(Hons ) and Diploma Holders for the promotion to (BPS-18) , the said notification was challenged before the Sindh Service Tribunal and finally Apex Supreme Court of Pakistan in C.P No 78-K of 2015 title Maula Bux Shaikh & others versus Chief Minister Sindh & others authenticated the 20 percent Quota of B-Tech (Hons) and Diploma Holders for the promotion in BPS(18).

(Copy of Honorable Supreme Court  
Judgment is annexed as Annexure "F")

- C. Thirdly Article 25 of the Constitution of Pakistan 1973, guarantees to every person the right to equality before the law and the equal protection of the laws. The guiding principal of Article 25 is that all persons and things similarly circumstanced shall be treated alike both in respect of privileges conferred and liabilities imposed. The intentional delay in convening Standing Service Rule Committee by Respondent No 4 infringes upon the fundamental Rights Guaranteed by the Constitution.
- D. Fourthly, in pursuance of the Judgment of Apex Court in Sou-Moto Petition No 52 of 1993 and clarification of High Education Commission , Provincial Works Department i.e Khyber Pakhtunkhawa Local Government & Rural Development made amendments in their existing recruitment rules vide notification dated 13-05-2016, while providing 20% quota for B.Tech (Hons) Degree holder SDOs/AEs(BPS-17)for onward promotion. It is pertinent to mention here that the Public Health engineering department Khyber Pakhtunkhwa also allowed onward promotion to

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EXAMINER  
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B.Tech(Hons) Degree Holder Engineers (BPS-18)in Standing Service Rules Committee on 13-03-2017.

(Copy of letter dated 13-05-2016 is attached as annexure "G & G1")

E Fifthly, Irrigation Department in SSRC meeting held on 29-04-2021 has reserved 20 percent quota for promotion of engineers possessing B.Tech(Hons) degree and DAE to the post of XEN and other BPS-18 Posts. It is pertinent to mention here that the matter of reservation of 20 percent quota for the B.Tech Engineers & DAE for promotion to (BPS-18) has been reserved in all other Provinces of the country but the officials of Civil & Works Department, Government of Khyber Pakhtunkhwa is reluctant and hesitant to grant such quota.

(Copy of SSRC meetings dated 29-04-2021 are attached as Annexure "H")

F Sixthly, the Standing Service rules committee meeting was lastly held in the year 2017 but despite of advice by Khyber Pakhtunkhawa law and Parliamentary affairs department vide letter dated 03-02-2021 meeting of SSRC was not convened due to reasons well known to them. However, to frame policy is the domain of the government but the government cannot keep such matter hanging for indefinite period particularly when such policy exists in other Engineering department.

G Seventhly, the Peshawar High Court Peshawar Vide its Judgment dated 25-04-2013 passed in Writ Petition No 328/2013 title Zahid Hussain versus Chief Secretary has categorically held as under

*5. the degree of B.Tech (Hons) and the degree of B.E/B.SC engineering were although held having distinct discipline of knowledge in field of Engineer and Technology but for the*

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EXAMINER  
Peshawar High Court

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equally and Writ Petition No. 1124 of 2006 decided on 21-02-2003 having been filed in similar circumstances was allowed and no appeal has been preferred so far against the said judgment. In the circumstances present writ petition merits acceptance.

Consequently, the writ petition is allowed as prayed for in the light of judgment referred to above

Announced :-24-04-2013

- H. Seventhly, despite letters issued by Respondent No 2 & 3, the inaction of Respondent No 4 for delaying amendments in service rules for promotion to the post of BPS-18 in Communication & Works is in complete violation of the established principles of equity, law, justice and propriety, calling for interference under Article 199 of the Constitution of Pakistan 1973 by the Honorable Peshawar High Court.
- J. Eighthly, the Sindh High Court in C.P No. 4235/2012 title Mehr Ali Dayo versus Government of Sindh having identical facts directed the Government of Sindh to frame the policy when such policy exist in other Engineering department. Order is produced for ready reference

Since it is clear that after regrouping there exists no policy regarding promotion on account of 20% quota, reserved for promotion fixed for diploma holders as exists in other Engineering Department of the Government but same is pending process. In absence of such a policy the claim of the petitioner cannot be accepted because the right to claim on basis of policy shall only be available when such a policy (law) exists and not in absence thereof for simple reason that it would be the law (policy) only which will give a right to claim the promotion. To frame policy is the domain of the government but the government cannot keep such matter hanging for indefinite period particularly when such policy exists in other Engineering department. Thus we dispose of this petition

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EXAMINER  
Peshawar High Court

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- (i) The Government shall also undertake exercise to frame the policy in Works and Services Department keeping in view the fact of existence of certain percentage of quota, reserved for promotion in other Engineering department;
- (ii) The respondent / quarter concern shall ensure that no unqualified person holds a post / job which requires special skills of professional engineering, as provided by Pakistan Engineering Council;
- (iii) any person posted on such post will be deemed illegal and such persons shall be removed from such posts without further delay;
18. The quarter concerned shall ensure compliance of these directions within a period of three (03) months and shall submit compliance report thereof.
19. Hence, instant petition is dismissed in the above terms.

(Copy of Sindh High court Order in C.P No. 4235/2012 title Mehr Ali Dayo versus Government of Sindh is attached as Annexure "K")

Any other grounds can be taken at the time of arguments if necessary.

It is therefore humbly prayed that on acceptance of this Writ petition.

PRAYER

A Direct Respondent No 4 (Secretary Communication & Works Department), Government of Khyber Pakhtunkhwa being the Chairman of SSRC to convene SSRC meeting at the earliest in accordance with law.

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EXAMINER  
Peshawar High Court

**ATTESTED**

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B. Grant any other relief that this honorable Court deems fit and appropriate in the facts and circumstances of the case.

Petitioner

Through

Mubashir Manzoor  
Advocate High Court

**INTERIM RELIEF.**

By way of this interim relief respondent No 4 be restrained to initiate any process of promotion of XEN or other categories of BPS 18 till the final disposal of main Writ Petition.

ADVOCATE

LIST OF BOOKS:

1. Constitution of Islamic Republic of Pakistan, 1973
2. Any other law books according to need

ADVOCATE

*[Signature]*  
CERTIFIED TO BE TRUE COPY  
EXAMINER  
23 AUG 2022

*[Signature]*  
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GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the November 04, 2016

**NOTIFICATION:**

No SOE/C&W/4-2/2016 (SDOs): On the recommendation of Departmental Promotion Committee (DPC), the Competent Authority has been pleased to promote the following B-Tech (Hons) Sub Engineers to the post of Assistant Engineers/SDOs (BS-17) of C&W Department on regular basis, with immediate effect:

- 1. Mr. Lal Badsah --- On Regular basis
- 2. Mr. Sher Wali Jang --- On Regular basis
- 3. Mr. Zamir Jang --- On Regular basis
- 4. Mr. Muhammad Ghazanfarullah --- On Regular basis
- 5. Mr. Shaukatullah Shah --- On Regular basis

2. The officers will be on probation for a period of one year except Sr.No.1 as he will be on probation till his retirement.

3. Consequent upon their promotion as Assistant Engineers/SDOs (BS-17) on regular basis, the Competent Authority is further pleased to order the transfer/posting of the following officers of C&W Department, with immediate effect, in the public interest:

Sl. No.	Name of Officers	Existing posting	Proposed for actualization/ Adjustment	Remarks
1	Mr. Lal Badsah AE (BS-17)	Sub Engineer O/O XEN C&W Division Malakand, holding the additional charge of the vacant post of SDO, in addition to his own duty	SDO C&W Sub Division Malakand	Against vacant post
2	Mr. Sher Wali Jang AE (BS-17)	Assistant Director (Tech) Anti-Corruption Establishment Khyber Pakhtunkhwa Peshawar in his own pay & Scale.	Assistant Design Engineer O/O CE (CDO) C&W Peshawar, after actualization of his promotion, reposted as Assistant Director (Tech) Anti Corruption Establishment Khyber Pakhtunkhwa Peshawar	---
3	Mr. Zamir Jang AE (BS-17)	Sub Engineer O/O XEN Highway Division Mardan, holding the additional charge of the vacant post of SDO, in addition to his own duty	SDO Highway Division Mardan	Against vacant post
4	Mr. Muhammad Ghazanfarullah AE (BS-17)	Sub Engineer O/O XEN Provincial Building (Constn) Division No.II, Peshawar	Junior Engineer (Survey/ RMU) O/O CE (CDO) C&W Peshawar	--do--
5	Mr. Shaukatullah Shah AE (BS-17)	SDO (O/S) C&W FATA Sub Division South Kalaya, Orakzai Agency.	SDO C&W FATA Sub Division South Kalaya, Orakzai Agency.	---

SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

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P.T.O.

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ADVOCATE

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(18)

ANNEXURE - "5"

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To

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

Subject: - AMENDMENT IN THE RECRUITMENT RULES - RESERVATION OF 20% QUOTA FOR PROMOTION OF B.TECH (Hons) DEGREE HOLDER SDOs (BS-17) TO THE POST OF XEN ETC. (BPS-18).

Dear Sir,

Respectfully we B.Tech (Hons) Degree Holder SDOs (BS-17) submit the following few lines for perusal and sympathetic consideration please:-

1. That the Supreme Court of Pakistan vide judgment in Sou Motu petition No.52 of 1993 considered the B.Tech (Hons) Degree at par with B.E/BSc Engineering Degree.
2. That the Higher Education Commission in its letter dated 31.07.2009 clarified equivalency of the B.Tech (Hons) Degree at par with B.E/B.Sc Engineering Degree for the purpose of employment in light of the decision taken by the University Grants Commission in 39<sup>th</sup> meeting held on 12.02.1998.
3. That in pursuance of the judgment of Apex Court and clarification of Higher Education Commission, the Khyber Pakhtunkhwa Establishment & Administration Department advised the PHE Department to place the case of B.Tech (Hons) degree holder Sub-Engineers before the SSRC. The Committee observed that the degree of B.Tech (Hons) is not similar to B.E/B.Sc Engineering professionally but for the purpose of pay, grade and promotion, B.Tech (Hons) Degree be treated at par with B.E/B.Sc Engineering.
4. That in view of the E&A Department advice and decision of the SSRC, provincial Works Departments i.e. Irrigation, PHE & C&W carried out amendments in the respective recruitment rules by reserving different quotas for promotion of B.Tech (Hons) Degree holder Sub-Engineers to the post of SDO (BS-17).
5. That keeping in view our age factor and in the presence of huge number of young SDOs inducted in the C&W Department through PSC, the aged B.Tech (Hons) Degree holder SDOs (BS-17) having hardly 3-7 years left towards retirement, will never be promoted as XEN (BS-18).
6. That in order to benefited the B.Tech (Hons) Degree holder SDOs from promotion to the post of XEN (BS-18), the Govt. of Sindh, Works & Services Department made amendments in the recruitment rules in 2014 whereby 80%, 13% & 7% quotas have been reserved for promotion to the post of XEN for SDOs, having B.E/B.Sc Engineering, B.Tech (Hons) Degree and Diploma holder respectively (copy enclosed).
7. That since in the Khyber Pakhtunkhwa entire Works Departments, Khyber Pakhtunkhwa, the SDOs, having DAE are not considered for promotion as XEN (BS-18), therefore, 80% and 20% quotas may be reserved for promotion to the post of XEN (BS-18) for SDOs (BS-17) having B.E/B.Scs Engineering and B.Tech (Hons) Degrees respectively.

Attested

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ADVOCATE

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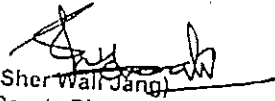
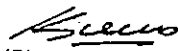
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- 8. The Quota reserved by the Sindh Government for promotion of B.Tech (Hons) degree holders SDOs to the post of XEN (BPS-18) has been confirmed/upheld by the Supreme Court of Pakistan vide its judgment announced on 15.08.2014 (copy attached).
- 9. That the Islamabad Electric Supply Company has also reserved 10% promotion quota against the post of Senior Engineers for Junior Engineers having qualification of B.Tech (Hons) (copy attached).

In view of the narration/facts above, the Secretary C&W Department, being Chairman of the SSRC may consider the genuine request of aged B.Tech (Hons) Degree holder SDOs (BS-17) and reserve 20% quota for promotion against the post of XEN on the analogy of Sindh Government and Islamabad Electric Supply Company, so as to avoid unnecessary litigations please.

Dated: 15-08-2017

Your's obediently

- 1.   
(Sher Wali Jang)  
Deputy Director (Tech) (OPS),  
Anti-Corruption Establishment,  
Khyber Pakhtunkhwa, Peshawar.
- 2.   
(Shaukatullah Shah)  
Executive Engineer (OPS)  
C&W FATA Division,  
Orakzai Agency.

Attested

to be true copy

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ADVOCATE



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ANNEXURE B

GOVT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-12/2017

Dated Peshawar, the November 24, 2017

To

1. The Special Secretary (Reg) ✓ Establishment & Admin. Department, Peshawar
2. The Additional Secretary (Reg) Finance Department, Peshawar
3. The Chief Engineer (Centre) C&W Department, Peshawar

Subject:

AMENDMENT IN THE APPOINTMENT AND RECRUITMENT RULES, 2010 OF THE COMMUNICATION & WORKS DEPARTMENT.

I am directed to refer to the subject noted above and to enclose herewith working paper duly signed pertaining to the reservation of promotion quota B-Tech (Hons) Assistant Engineers/SDOs (BS-17) to the rank of Executive Engineer (BS-18). The meeting of the SSRC of C&W Department is scheduled to be held on 28.11.2017 at 1100 Hours in the Committee Room of C&W Secretariat Peshawar.

2. Furthermore, it is pertinent to mention that the case with regard to the Enhancement of quota of B-Tech (Hons) Sub Engineers from 3.5% to 10% to the post of Assistant Engineers/SDO (BS-17) was discussed in the SSRC meeting held on 19.10.2017 but the committee unanimously decided to obtain information from Irrigation Department about the procedure adopted while reserving 08% quota for B-Tech (Hons) Degree Holder Sub Engineers for promotion to the post of Assistant Engineer/ SDO (BS-17). Accordingly, the information obtained (copy enclosed). This case will also be discussed in the scheduled meeting.

3. It is, therefore, requested to make it convenient to attend the aforesaid meeting on the scheduled date, time and venue.

Yours faithfully

(USMAN JAN)  
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded for information to the:

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

Attested  
to be true copy

SECTION OFFICER (Estb)

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ATTESTED



22

291

GOVT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-12/2017  
Dated Peshawar, the November 27, 2017

To  
20/11/17  
28/11/17  
28/11/17  
Subject:

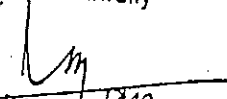
1. The Special Secretary (Reg)  
Establishment & Admin Department, Peshawar
2. The Additional Secretary (Reg)  
Finance Department, Peshawar
3. The Chief Engineer (Centre)  
C&W Department, Peshawar

AMENDMENT IN THE APPOINTMENT AND RECRUITMENT RULES, 2010 OF  
THE COMMUNICATION & WORKS DEPARTMENT

I am directed to refer to this Department letter of even number dated 24.11.2017 on the subject noted above and to stated that the meeting of the Standing Service Rule Committee (SSRC) has been re-scheduled, which will now to be held on 28.11.2017 at 1400 hours in the Committee Room of C&W Secretariat Peshawar.

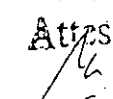
It is, therefore, requested to make it convenient to attend the aforesaid meeting on the scheduled date, time and venue.

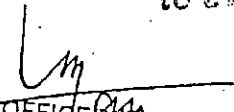
Yours faithfully

  
(USMAN JAN)  
SECTION OFFICER (Estb)

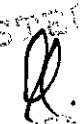
Endst even No. & date  
Copy forwarded for information to the:

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

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to be true copy

  
SECTION OFFICER (Estb)

  
**ATTESTED**

**ATTESTED**  
  
ADVOCATE



GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
~~LEAVE/ PARLIAMENTARY AFFAIRS AND~~  
~~HUMAN RIGHTS DEPARTMENT~~

292

(81) (20)

ANNEXURE: 1

No. Reg: I(1)79/C&W/Vol-II/2990406.

Peshawar,  
Dated the 24-10-2017

To

The Secretary,  
Government of the Khyber Pakhtunkhwa,  
Communication and works Department.

SUBJECT: AMENDMENT IN THE RECRUITMENT RULES-  
RESERVATION OF 20% QUOTA FOR PROMOTION OF B-  
TECH (HONS) SDOS (BS-17) TO THE POST OF EXECUTIVE  
ENGINEER (BS-18).

Dear Sir,

I am directed to refer to your letter No. SOE(C&WD)11-4/2017, dated 13-10-2017 on the subject noted above and to state that the matter involves policy decision by the Administrative Department. Therefore, the Administrative Department is advised to take policy decision in matter and place the same before the SSRC for approval being competent forum. After approval of the SSRC and concurrence of Khyber Pakhtunkhwa Public Service Commission, the Administrative Department is advised to send the same to this Department for vetting purpose.

Yours faithfully,

*[Signature]*  
(IMRAN KHAN)  
ASSISTANT LEGAL DRAFTER-V  
(LEGISLATION WING)

Endst: No. & date even:-

Copy is forwarded for information to:

1. PS to Secretary, Government of the Khyber Pakhtunkhwa Law Department.
2. PA to Legal Drafter, Law Department.

*[Signature]*  
ASSISTANT LEGAL DRAFTER-V

*[Signature]* Attested  
to be true copy.

Attested  
*[Signature]*  
to be true copy

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*[Signature]*  
ADVOCATE

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**WORKING PAPER**

~~ANNEXURE B~~

**Subject: AMENDMENT IN THE RECRUITMENT RULES - RESERVATION OF 20% QUOTA FOR PROMOTION OF B-TECH (HONS) SDOs (BS-17) TO THE POST OF EXECUTIVE ENGINEER (BS-18)**

Pursuant to the Supreme Court of Pakistan Islamabad judgment dated 5.08.2014 and on the analogy of Works & Services Department Government of Sindh, a B-Tech (Hons) degree holder SDOs (BS-17) of C&W Department has submitted a joint representation with the request that 20% quota may be reserved for them for promotion to the post of XEN etc (BS-18) in the Department (Annex-I):-

Short facts of the application are as under:-

- i. In pursuance of the judgment of Apex Court on sou-motu petition No.52 of 1993 and clarification of Higher Education Commission, the Khyber Pakhtunkhwa Establishment & Admn. Department advised the PHE Department to place the case of B-Tech (Hons) Sub Engineers before the SSRC. The committee observed that B-Tech (Hons) is not similar to B.E/B.Sc Engineering professionally but for the purpose of pay, grade and promotion, B-Tech (Hons) be treated at par with B.E/B.Sc Engineering.
  - ii. In view of E&A Department advice and decision of the SSRC, Provincial Works Departments i.e. Irrigation, PHE and C&W carried out amendments in the respective recruitment rules by reserving different quotas for promotion of B-Tech (Hons) Sub Engineers to the post of SDO (BS-17).
  - iii. Keeping in view their age factor and in the presence of huge number of young SDOs inducted in the C&W Department through Public Service Commission, the aged B-Tech (Hons) holder SDOs (BS-17) having hardly 5-7 years left towards retirement will never be promoted as Executive Engineer (BS-18).
  - iv. In order to benefited the B-tech (Hons) holder SDOs from promotion to the post of XEN (BS-18), the Govt of Sindh Works & Services Department made amendments in the recruitment rules in 2014 whereby 80%, 13% & 07% quotas have been reserved for promotion to the post of XEN for SDOs, having B.E/B.Sc Engineering, B-Tech (Hons) and Diploma Holder respectively.
  - v. Since in the Khyber Pakhtunkhwa entire Works Departments, the SDOs, having DAE are not considered for promotion as XEN (BS-18), therefore, 80% and 20% quotas may be served for promotion to the post of XEN (BS-18) for SDOs (BS-17) having B.E/B.Sc Engineering and B-Tech (Hons) respectively.
  - vi. The quota reserved by the Sindh for promotion of B-Tech (Hons) SDOs to the post of XEN (BS-18) has been confirmed/upheld by the Supreme Court of Pakistan vide its judgment dated 15.08.2014 Annex-II.
  - vii. The Islamabad Electric Supply Company has also reserved 10% promotion quota against the post of Senior Engineers for Junior Engineers having qualification of B-Tech (Hons). Annex-III.
3. Keeping in view the strength of BE/B.Sc Engineering and B-Tech (Hons) degrees holder SDOs (BS-17), this Department proposes to reserve 90% & 10% quotas for promotion to post of XEN etc (BS-18) for SDOs (BS-17) having BE/B.Sc Engineering and B-Tech (Hons) degrees respectively as per details given in the proforma (Annex-IV).

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ADVOCATE

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The SSRC is therefore requested to consider the proposal at para-3 above and approve the amendments in the existing service rules for the post of XEN etc (BS-18) mentioned at Sr.No.3 of the appendix/service rules notified in 2010.

*Misal Khan*  
(MISAL KHAN)  
DEPUTY SECRETARY (ADMN)  
C&W DEPARTMENT

Attested  
*[Signature]*  
to be true copy

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*[Signature]*  
to be true copy

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**ATTESTED**

*[Signature]*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SO(Lit)/C&W/2-943/2021

Dated Peshawar, the March 22, 2022

To

The Secretary to  
Govt of Khyber Pakhtunkhwa  
Establishment Department, Peshawar

Subject:

WRIT PETITION NO.2707-P/2021 AND WRIT PETITION NO.1539-P/2021  
WITH CMS NO.1476, 1772 OF 2021 AND 229 OF 2022 -NIAMAT GUL SDO &  
OTHERS VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH  
CHIEF SECRETARY & OTHERS.

Dear Sir,

I am directed to refer the Establishment Department (Judicial wing) letter No.SO(Lit-I)E&AD/2-5636/2021 dated 11.03.2022 on the subject noted above and to state that Chief Secretary Khyber Pakhtunkhwa has constituted a high level committee for consideration the stance of Civil Engineers/B-Tech Holders of Works Departments. However, the committee has not finalized/submitted the report to the Chief Secretary Khyber Pakhtunkhwa. Once the committee submitted its report, further necessary action will be taken accordingly, please.

Yours' faithfully

SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to the:

1. Section Officer (Litigation-I) Establishment Department, Peshawar
2. Section Officer (Litigation) C&W Department, Peshawar
3. PS to Secretary C&W Department, Peshawar
4. PA to Additional Secretary C&W Department Peshawar
5. PA to Deputy Secretary (Admn) C&W Department Peshawar

22.03.2022  
SECTION OFFICER (Estb)

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ADVOCATE

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMN: DEPARTMENT  
(REGULATION WING)

No.SOR-V(E&AD)/7-1/KC/2022/Irrig:  
Dated 22<sup>nd</sup> March, 2022.

To

The Section Officer (Litigation-I),  
Establishment Department.

Subject:

WRIT PETITION NO.2707/2021 SHAUKAT ULLAH SHAH VS  
GOVT. OF KHYBER PAKHTUNKHWA

AND

WRIT PETITION NO. 1539-P/2021 NAIMAT GUL VS GOVT. OF  
KHYBER PAKHTUNKHWA & OTHERS.

Dear Sir,

I am directed to forward herewith a copy of Law Department letter No.SO(Lit)/Law Department/Misc/2022/Naimat Gul-Shaukat Ullah dated 21.03.2022 alongwith its enclosures and minutes of the committee meeting constituted under the chairmanship of Additional Chief Secretary for necessary action and to attend the Court on 24.03.2022, please.

Yours faithfully,

SECTION OFFICER (REG-V)

Encl: As above.

Endst: of even No. & Date.

Copy forwarded to:

1. Secretary to Govt. of Khyber Pakhtunkhwa, Law Parliamentary Affairs and Human Rights Department with reference to his letter referred above.
2. Secretary to Govt. of Khyber Pakhtunkhwa Communication & Works Department.
3. PA to Additional Secretary (Reg-II) Establishment Department.

SECTION OFFICER (REG-V)

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ADVOCATE

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Subject: MINUTES OF THE COMMITTEE MEETING CONSTITUTED UNDER THE CHAIRMANSHIP OF ADDITIONAL CHIEF SECRETARY, P&D DEPARTMENT.

In order to discuss the issues pertaining to the BSc/B.Tech Engineers, meeting of the Committee constituted under the chairmanship of Additional Chief Secretary was convened on 21.12.2021 at 1430 hrs. After welcoming remarks the chair asked the representative of Establishment Department to brief the committee regarding background of the case.

2. Representative of Establishment Department informed that a joint application was previously submitted to Chief Secretary Khyber Pakhtunkhwa by B.Tech(Hons) degree holders and Diploma holder SDOs of Irrigation Department for promotion to the next higher grade. Irrigation Department was asked to place the case before Standing Service Rule Committee (SSRC). Standing Service Rule Committee in its meeting held on 29.04.2021, recommended 12% quota for B.Tech (Hons) and 8% for Diploma holder for promotion to the next higher grade/post. In the meanwhile before implementation of the recommendations of the Standing Service Rules Committee, Irrigation Department submitted another Note for Chief Secretary for constituting separate committee to review decision of SSRC meeting held on 29.04.2021. Whereupon the Administrative Department was asked that under Rule-3(2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, it is the mandate of the Irrigation Department to dispose the matter in light of the existing Service Rules. Subsequently, recommendations of the SSRC regarding amendment in the Service Rules of Irrigation Department vetted by Law Department get approved from the Competent Authority. Irrigation Department has notified the service rules as per laid down procedure.

3. Representative of Establishment Department further informed that as far as various Courts Judgments passed with regard to BSc/B.Tech Engineers are concerned, the latest Judgment of the Supreme Court was passed on 24.04.2018 in C.P.No.78-K of 2015 Maula Bux Shaikh VS Chief Minister Government of Sindh and others. Operative part of the Judgment is reproduced as under:-

*"The net result of above discussion is that this petition falls. It is dismissed and leave refused, however with note of caution that government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as a register engineer or professional engineer under the PEC Act."*

4. He further informed that in order to resolve identical issue, PHE Department in its recent meeting of SSRC has also reserved promotion quota in BPS-18 for B.Tech and Diploma holders Engineers in consultation with all stakeholders.

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5. Representative of Law Department informed that the matter is subjudice in the Khyber Pakhtunkhwa Service Tribunal and parawise comments have already been submitted to the Tribunal after getting signatures of respondents i.e. Chief Secretary, Secretaries Establishment, Law, Irrigation and Finance Departments.

6. However, the issues were discussed in light of Khyber Pakhtunkhwa Civil Servants Act, 1973, APT Rules, 1989 with special reference to SSRC. Representative of Establishment Department pointed out that terms and conditions of service of civil servants are regulated under Khyber Pakhtunkhwa Civil Servants Act, 1973. Consequently, Pakistan Engineering Council Act, 1976 is not applicable in case of civil servants. Moreover the Supreme Court of Pakistan in Suo Moto Review Petition No. 52/1993 Fida Hussain vs Secretary Kashmir Affairs and Northern Affairs Division Islamabad decided on 5<sup>th</sup> June 1995 had held that "it is the domain of the government concerned to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one Grade to another higher Grade and whereas it is the domain of the Pakistan Engineering Council to decide, as to whether a particular academic qualification can be equated with another academic qualification, but it has no power to say that the civil servants/employees holding particular academic qualifications cannot be promoted from a particular Grade to a higher Grade. The main object of the Act is to regulate the working of professional engineers and consulting engineers and not to regulate the qualifications or the working of the engineers in the government or semi-government departments".

7. After threadbare discussion it was decided that necessary documents may be obtained from both the associations of Engineers so that the same could be further discussed in forthcoming meeting of the Committee.

.....

  
**ATTESTED**

**ATTESTED**  
  
**SECRETARY**

COURT MATTER  
MOST IMMEDIATE



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(JUDICIAL WING)

No. SO(Lit-I)E&AD/2-5656/2021  
Dated: Peshawar, the 30.03.2022

To

✓ The Secretary to Govt. of Khyber Pakhtunkhwa,  
C & W Department.

Subject:

W.P NO. 2707-P/2021 – SHAUKAT ULLAH SHAH & OTHERS VS  
GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS.

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of Judgment dated 24.03.2022 passed by the Hon'ble Peshawar High Court, Peshawar with the request to provide the requisite documents/ working paper etc to the said Committee for consideration/ finalization of the case within the stipulated period of one month as desired/ directed by the Hon'ble Court, please.

Yours faithfully,

Encl: As above.

Section Officer (Litigation-I)

Endst: of even No. & Date.

**Copy forwarded for information and necessary action to:-**

1. Additional Chief Secretary, P&D Department, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
4. Secretary to Govt. of Khyber Pakhtunkhwa Law Department.
5. Deputy Secretary (Regulation-III), Regulation Wing, Establishment Department.
6. PS to Special Secretary (Judicial), Establishment Department.
7. PA to Additional Secretary (Judicial), Establishment Department.
8. PA to Deputy Secretary (Judicial), Establishment Department.
9. Master File.

Section Officer (Litigation-I)

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ADVOCATE

**URGENT MATTER**  
**POST IMMEDIATE**

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**REMINDER-II**



**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**ESTABLISHMENT DEPARTMENT**  
**(JUDICIAL WING)**

No. SO(Lit-I)E&AD/2-5656/2021  
Dated: Peshawar, the 13.05.2022

To  
The Special Secretary (Regulation),  
Regulation Wing Establishment Department

One Spl. Secretary (Reg.)  
Establishment Department

Attention: Deputy Secretary (Regulation-III)

D.No. 1703 an


Date 16-5-22

Subject: W.P. NO. 2707-P/2021 – SHAUKAT ULLAH SHAH & OTHERS VS  
GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS.

Dear Sir,

I am directed to refer to this Wing's letter of even number dated 30.03.2022 followed by subsequent reminders of even number dated 19.04.2022 & 26.04.2022 on the subject noted above and to state that the steps taken or progress made towards implementation of the said Judgment so far may kindly be intimated, please.

Yours faithfully,

  
Section Officer (Litigation-I)

Endst: of even No. & Date.

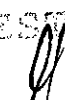
Copy forwarded for information and necessary action to:-

1. Additional Chief Secretary, P&D Department, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
4. Secretary to Govt. of Khyber Pakhtunkhwa Law Department.
5. Secretary to Govt. of Khyber Pakhtunkhwa C&W Department.
6. PS to Special Secretary (Judicial), Establishment Department.
7. PS to Special Secretary (Regulation), Establishment Department.

SO (Lit-I)  
D. Address

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**ATTESTED**  
  
**ADVOCATE**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Dated Pesh: the 06.06.2022

NOTIFICATION

NO SOIESTI-III/FDI1-5512022/LFAJPSB. On the recommendation of the Local Selection Board and exercising his powers, conferred under Rule 47 of the Appointment, Promotion & Transfer Rules, 1989, the Chief Minister Khyber Pakhtunkhwa has been pleased to approve the promotion of Mr. Sonal Nazir Assistant Director (BPS-17), Directorate of Local Fund Audit Khyber Pakhtunkhwa to the post of Deputy Director (BPS-18) on regular basis w.e.f 23.05.2022 i.e one day prior to his retirement.

SECRETARY TO GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Encls: No. & Date even

Two, forwarded to -

1. The Accountant General Khyber Pakhtunkhwa.
2. The Director Local Fund Audit Khyber Pakhtunkhwa.
3. The Manager Khyber Pakhtunkhwa Printing Press, Peshawar for publication in the next issue of official gazette.
4. PS to Chief Secretary Khyber Pakhtunkhwa.
5. PS to Secretary Finance Department. / *[Signature]*
6. PS to Special Secretary (A&R), Finance Department.
7. PA to Additional Secretary (Admin), Finance Department.
8. PA to Prom. Coord (PIAC), Finance Department.
9. Office concerned.
10. Office Order No

*[Signature]*  
09/16/22  
Section Officer (Estt-II)

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302

GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Dated Pesh: the 06-06-2022

NOTIFICATION

NO. SO (ESTT-II)FD/1-55/2022/LFA/PSB on the recommendation of provincial selection board and exercising his powers, conferred under rule 4(1) (a) of the appointment promotion & transfer rules, 1989 the chief minister Khyber Pakhtunkhwa has been pleased to approve the promotion of mr. Sohail nazir assistant director (bps-17) director of local fund audit Khber Pakhtunkhwa to the post of Duputy Director (bps-18) on national basis w.e.f 23-05-2022 i.e one day prior to his retirement.

SECRETARY TO GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

Endst: No. & Date Even

Copy forwarded to:-

1. The Accountant General Khyber Pakhtunkhwa.
2. The Director Local Fund Audit Khyber Pakhtunkwa.
3. The Manager Khyber Pakhtunkhwa Printing Press, Peshawar for publication in the next issue of official gazette.
4. PS to chief secretary Khyber Pakhtunkwa.
5. PS to secretary Finance Department.
6. PS to Special Secretary (A&R) Finance Department.
7. PA to Additional Secretary (ADMn) Finance Department.
8. PA to provi Coord (PIAC) Finance Department,
9. Officer Concerned.
10. Office Order File

Section Officer (Estt-II)

Attested True (CD)



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GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMN: DEPARTMENT  
(REGULATION WING)

No.SOR-V(E&AD)/7-1/Irrig;  
Dated 10<sup>th</sup> June, 2022.

303

To

1. The Principal Secretary to Chief Minister,  
Khyber Pakhtunkhwa.
2. The Secretaries to Govt. of Khyber Pakhtunkhwa,
  - i. Communication & Works Department.
  - ii. Planning & Development Department.
  - iii. Law, Parliamentary Affairs & Human Rights Department.
  - iv. Irrigation Department.
  - v. Public Health Engineering Department.
3. The Advocate General, Khyber Pakhtunkhwa.

Subject: MINUTES OF THE MEETING OF THE COMMITTEE CONSTITUTED UNDER THE CHAIRMANSHIP OF ADDITIONAL CHIEF SECRETARY, P&D DEPARTMENT KHYBER PAKHTUNKHWA HELD ON 20-04-2022.

Dear Sir,

I am directed to refer to the subject noted above and to forward herewith a copy of minutes of the meeting held on 20-04-2022 under the chairmanship of Additional Chief Secretary, P&D Department, Khyber Pakhtunkhwa for further necessary action, please.

Yours faithfully,

(Sultan Wazir Khan)  
SECTION OFFICER (REG-V)

Enclosed As Above.

Endst: of even No. & Date.

Copy forwarded alongwith copy of the said minutes to:-

1. The Additional Secretary (Judicial), Establishment Department, with reference to writ petition, No. 2707-P/2021 vide letters No. SO(Lit-I)E&AD/2-5656/2021 dated 30-03-2022 and No. SO(Lit-I)E&AD/2-5656/2021 dated 17-05-2022 for further necessary action.
2. The Assistant Law Officer (Lit), Law Department w/r to his letter No. SO(Lit)/LD/Misc/2022/Shoukatullah & others dated 04-04-2022.
3. PS to Additional Chief Secretary, P&D Department, Khyber Pakhtunkhwa.
4. PS to Secretary Establishment Department, Khyber Pakhtunkhwa.
5. PA to Additional Secretary (R-II), Establishment Department.
6. PA to Deputy Secretary (Reg-III), Establishment Department.

SECTION OFFICER (REG-V)

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ADVOCATE



Subject: MINUTES OF THE COMMITTEE MEETING CONSTITUTED UNDER THE CHAIRMANSHIP OF ADDITIONAL CHIEF SECRETARY, P&D DEPARTMENT.

In order to discuss the issues pertaining to the BSc/B.Tech Engineers second meeting of the Committee was held on 20.04.2022 at 1000 hrs under the chairmanship of Additional Chief Secretary. List of participants is attached.

2. At the outset, the Chair directed the representative of P&D Department to brief/update the meeting. Representative of P&D informed the meeting that the issues were discussed in the previous meeting as per TORs of the Committee and it was decided that necessary documents may be obtained from both the associations of Engineers. The same have been obtained and shared with the P&D Department by Establishment Department. Representative of Establishment Department may therefore, brief the meeting regarding stance of both the Associations of Engineers in support of their demand.

3. Representative of Establishment Department informed the meeting that that B.E/BSc Degree holder Engineers are relying on Pakistan Engineering Council Act, 1976 and operative part of the Supreme Court Judgment dated 24.04.2018 passed in C.P No.78-K of 2015 Maula Bux Shaikh VS Chief Minister Government of Sindh and others which stipulates that *"the net result of above discussion is that this petition fails. It is dismissed and leave refused, however, with note of caution that government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as a register engineer or professional engineer under the PEC Act."* While stance of the B.Tech (Hons) and Diploma Holders Engineers is that the notified service rules may be implemented by considering their promotion cases under the ibid rules.

4. Highlighting Maula Bux case, representative of Establishment Department informed the forum that as per the Supreme Court of Pakistan Judgment the petitioner

  
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ADVOCATE




(Maula Bux) was B.Sc Engineer appointed as Sub Engineer in the year 1985 in Works and Service Department, Government of Sindh Karachi and subsequently promoted to the post of Assistant Engineer (BS-17) in the year 1997. Plea of the petitioner was that he was a qualified Engineer holding degree of Bachelor of Engineering and his promotion to BS-18 was affected due to 13% and 07% quotas reserved to B.Tech (Hons) Degree holders and Diploma holders Assistant Engineers respectively for promotion to the post of Executive Engineers BS-18. Moreover, Para-16 of the ibid Judgment stipulates that it is the domain of the government concerned to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one Grade to another higher Grade and whereas it is the domain of the Pakistan Engineering Council to decide, as to whether a particular academic qualification can be equated with another academic qualification, but it has no power to say that the civil servants/employees holding particular academic qualifications cannot be promoted from a particular Grade to a higher Grade. The main object of the Act is to regulate the working of professional engineers and consulting engineers and not to regulate the qualifications or the working of the engineers in the government or semi-government departments.

5. Representative of Establishment Department further informed that terms and conditions of service of civil servants are managed and regulated under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Rule-3(2) of the ibid rules provides that the method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the Department concerned in consultation with the Establishment and Finance Departments. Service Rules are framed/amended after convening meeting of the SSRC presently centralized in the Establishment Department. He pointed out that Irrigation and Public Health Engineering Departments have provided career progression/promotion chances to the B.Tech (Hons) Degree holders and Diploma holders by amending their relevant service rules.

6. During discussion it was noted that as per existing service rules of C&W Department the requisite qualification for the post SDO/Assistant Engineer (BS-17) is

  
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Degree in B.E/BSc Engineering (Civil/Mechanical/Electrical) from a recognized University and the post is to be filled as per following method of recruitment:-

- (i) 65% by initial recruitment.
- (ii) 16.50 % from amongst the Sub Engineers who hold a diploma of (Civil Mechanical or Electrical) and have passed departmental professional examination with 10 years service as such.
- (iii) 5% by promotion on the basis of seniority-cum-fitness from amongst the Sub Engineers who possess Degree of B.E or BSc Engineering (Civil Mechanical or Electrical) at the time of their joining service and have passed Departmental Professional Examination with 03 years service as such.
- (iv) 3.5% by promotion on the basis of seniority-cum-fitness from amongst the Sub Engineers who acquired Degree of B.E or BSc Engineering (Civil Mechanical or Electrical) during service and have passed Departmental Professional Examination with 03 years service as such.
- (v) 10% by promotion on the basis of seniority-cum-fitness, from amongst the Sub Engineers having Degree of B.Tech (Hons) and have passed Departmental Professional Examination with 05 years service as such.

7. It is worth mentioning that career progression for promotion to the Diploma Holder Engineers and B.Tech (Hons) Degree Holders Engineers has already been agreed/provided in BS-17, while it is being refused for their further promotion to BS-18 irrespective of the fact that a joint seniority list of Assistant Engineers (BS-17) is being maintained for the purpose of further career progression. Moreover, promotion chances to (BPS-18) for B.Tech (Hons) and Diploma Holder Assistant Engineers have been provided in Irrigation, PHE, LG&RD and Energy and Power Departments.

8. After threadbare discussion in light of Supreme Court Judgment referred to above, the Khyber Pakhtunkhwa Civil Servants Act, 1973, APT Rules, 1989 and the Peshawar High Court Judgment dated 24.03.2022 regarding convening of SSRC meeting, it was unanimously recommended that C&W Department may review its existing service rules by providing opportunities/chances of promotion to the B.Tech (Hons) degree holders and Diploma holders Assistant Engineers on the analogy of other technical departments i.e Irrigation, E&P and PHE Departments.

**ATTESTED**

**COURT MATTER  
MOST IMMEDIATE**

307



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(JUDICIAL WING)

No. SO(Lit-I)E&AD/2-5656/2021  
Dated: Peshawar, the 16.06.2022

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
C & W Department.

Subject:

**MINUTES OF THE MEETING OF THE COMMITTEE CONSTITUTED  
UNDER THE CHAIRMANSHIP OF ADDITIONAL CHIEF  
SECRETARY, P&D DEPARTMENT KHYBER PAKHTUNKHWA  
HELD ON 20.04.2022 IN W.P NO. 2707-P/2021 - SHAUKAT ULLAH  
SHAH & OTHERS VS GOVERNMENT OF KHYBER  
PAKHTUNKHWA & OTHERS.**

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of letter No. SOR-V(E&AD)/7-1/Irrig: dated 10.06.2022 alongwith Minutes of the meeting of the subject meeting held on 20.04.2022 received from Section Officer (Regulation-V) of this Department for information and further necessary action, please.

Yours faithfully,

Encl: As above.

Section Officer (Litigation-I)

Endst: of even No. & Date.

Copy forwarded for information and necessary action to:-

1. Section Officer (Reg-V) Establishment Department.
2. PS to Special Secretary (Judicial), Establishment Department.
3. PS to Additional Secretary (Judicial), Establishment Department.
4. PA to Deputy Secretary (Judicial), Establishment Department.
5. Master File.

Section Officer (Litigation-I)

**ATTESTED**

ATTESTED  
16/6



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No SOE/C&WD/8-12/2020 SSRC  
Dated Peshawar, the June 27, 2022

308

RECEIVED  
Diary No. \_\_\_\_\_  
Date \_\_\_\_\_

2292/142  
27/6/22

PS/Secy E&AD KP  
Diary No. 538  
FIS No. \_\_\_\_\_  
Date 27/6/22

The Secretary to  
Govt of Khyber Pakhtunkhwa  
Establishment Department, Peshawar

Subject: MINUTES OF THE MEETING OF THE COMMITTEE CONSTITUTED UNDER THE CHAIRMANSHIP OF ADDITIONAL CHIEF SECRETARY, P&D DEPARTMENT KHYBER PAKHTUNKHWA HELD ON 20.04.2022

Dear Sir,

I am directed to refer the Government of Khyber Pakhtunkhwa Establishment & Admn. Department (Regulation Wing), letter No SOR-V(E&AD)7-1/irrig. dated 10.06.2022 on the subject noted above and to forward herewith a working paper regarding amendment in the existing Service Rules 2010 of C&W Department complete in all respect for placing before SSRC for consideration as desired. please

*please examine the working paper before the SSRC. Attached please see SSRC.*  
bml  
30/6

Yours faithfully  
Stam  
27.06.2022

SECTION OFFICER (Estb)

Encls. even No. & date

DSR-14  
SOR-V

Copy forwarded to the

1. PS to Additional Chief Secretary P&D Department, Peshawar
2. Section Officer (Reg-V) Establishment Department, Peshawar
3. Section Officer (Litigation-I) Establishment Department, Peshawar
4. Section Officer (Litigation) C&W Department, Peshawar
5. PS to Secretary C&W Department, Peshawar
6. PA to Additional Secretary C&W Department Peshawar
7. PA to Deputy Secretary (Admn) C&W Department Peshawar

*SOCR-V)  
Examine and  
proceed/p/4 plg.  
30.06*

SECTION OFFICER (Estb)

*SSR  
ASR-II  
12/6/22  
Sps 28/6*

*bml  
30/6*

**ATTESTED**

309**GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT**No. SOE(C&WD/8-12/2020 SSRC  
Dated Peshawar the June, 27, 2022

To  
The Secretary,  
Govt of Khyber Pakhtunkhwa,  
Establishment Department, Peshawar.

**Subject: MINUTES OF THE MEETING OF THE COMMITTEE  
CONSTITUTED UNDER THE CHAIRMANSHIP OF ADDITIONAL  
CHIEF SECRETARY P&D DEPARTMENT KHYBER  
PAKHTUNKHWA HELD ON 20.04.2022.**

Dear Sir,

I am directed to refer the Government of Khyber Pakhtunkhwa Establishment & Admn Department (Regulation Wing) letter No SOR-V(E&AD)T-1/1mg dated 10.06.2022 on the subject noted above and to forward herewith a working paper regarding amendment in the existing Service Rules, 2010 of C&W Department complete in all respect for placing before SSRC for consideration as desired please.

Yours Faithfully  
Sd/-  
27.06.2022  
Setion Officer (Estt)

**Endst even No & date**

Copy forwarded to the:

1. PS to Additional Chief Secretary P&D Department Peshawar.
2. Section Officer (REg-V) Establishment Department Peshawar.
3. Section Officer (Litigation-I) Establishment Department Peshawar.
4. Section Officer (Litigation) C&W Department Peshawar.
5. PS to Secretary C&W Department, Peshawar.
6. PA to Additional Secretary C&W Department Peshawar
7. PA to Deputy Secretary (Admn) C&W Department, Peshawar.

Sd/-  
Section Officer / Estb

*Attested True Copy*  
*[Signature]*  
**ATTESTED**

310

WORKING PAPER FOR S.S.R.C

AMENDMENT IN THE EXISTING SERVICE RULES OF C&W DEPARTMENT FOR PROMOTION OF ASSISTANT ENGINEERS B-TECH (HONS)/ASSISTANT ENGINEERS DIPLOMA HOLDER (BS 17) TO THE POST OF EXECUTIVE ENGINEER (BS 18)

The E-Tech (Hons) holder Assistant Engineers (BS-17) C&W filed writ petition No. 2791 P. 2021 & writ petition No. 1141 P. 2021 in Peshawar High Court Peshawar with the prayer to create/reserve 20% quota for the posts of BS 18 & above for the employees holding B-Tech (Hons) degree/holding as Joint Divisional Officers/Assistant Engineers (BS-17) in respondent Department (C&W). **Annex-I** in the meanwhile a high level committee was constituted under the chairmanship of Additional Chief Secretary Khyber Pakhtunkhwa in light of Competent Authority (Chief Secretary) directions to be based the TORs mentioned in the referred Notification (**Annex-II**)

2. In the afore-referred writ petitions, Peshawar High Court Peshawar has passed the orders on 24.03.2022 (**Annex-III**) with the verdicts "The committee is directed to finalize its recommendations within 60 days positively"

3. Now in this regard Establishment & Admn. Department has forwarded minutes of the meeting held on 20.04.2022 for further necessary action (**Annex-IV**). In the minutes the committee has referred the operative part of the Supreme Court of Pakistan judgment dated 24.04.2018 (**Annex-V**), which stipulates that "the net result of above discussion is that this petition fails. It is dismissed and leave refused, however, with note of caution that Government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institutions and this name is not registered as a register engineer or professional engineer under the PEC Act"

4. In the concluding para. the committee has mentioned that after thread bare discussion, in light of Supreme Court Judgment, the Khyber Pakhtunkhwa Civil Servants Act 1973, APT Rules, 1989 and the Peshawar High Court Judgment dated 24.03.2022 regarding convening of SSRC meeting, it was unanimously recommended that C&W Department may review its existing service rules by providing opportunity chances of promotion to the E-Tech (Hons) Degree holders and Diploma Holders Assistant Engineers on the analogy of other technical departments i.e. Irrigation, Energy & Power and PHE Departments (**Annex-VI**).

*Signature*

*Signature*  
**ATTESTED**

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT**

**WORKING PAPER FOR S.S.R.C**

Subject: **AMENDMENT IN THE EXISTING SERVICE RULES OF C&W DEPARTMENT FOR PROMOTION OF ASSISTANT ENGINEERS B-TECH (HONS)/ASSISTANT ENGINEERS DIPLOMA HOLDER (BS-17) TO THE POST OF EXECUTIVE ENGINEER (BPS-18).**

The B-Tech (Hons) holder Assistant Engineer (BS-17) C&WD filed writ petition No. 2707-P/2021 & writ petition No. 1539-P/2021 in Peshawar High Court Peshawar with the pray to create / reserve 20% quota in the posts of BS-18 & above for the employees having B-tech (hons) degree serving as Sub Divisional Officers / Assistant Engineers (BS-17) in respondent department (C&WD) Annex-I. In the meanwhile a high level committee was constituted under the chairmanship of Additional Chief Secretary Khyber Pakhtunkhwa in light of Competent Authority (Chief Secretary) directions to be based the TORs mentioned in the referred Notification (Annex-II).

2. In the afore-referred writ petitions. Peshawar High Court Peshawar has passed the orders on 24.03.2022 (Annex-III) with the verdicts. The committee is directed to finalize its recommendations within 80 days positively.
3. Now in this regard Establishment & Admn Department has forwarded minutes of the meeting held on 20.04.2022 for further necessary action (Annex-IV, in the minutes, the committee has referred the operative part of the Supreme Court of Pakistan judgment dated 24.04.2018 (Annex-V) which stipulated that "the net result of above discussion is that this petition fails. It is dismissed and leave refused, however, with note of caution that Government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institutions and this name is not registered as a register engineer or professional engineer under the PEC Act.
4. In the concluding para, the committee has mentioned that after thread bare discussion in light of Supreme Court Judgment, the Khyber Pakhtunkhwa Civil Servants Act, 1973 APT Rules 1989 and the Peshawar High Court judgment dated 24.03.2022 regarding convening of SSRC meeting, it was unanimously recommended that C&W Department may review its existing service rules by providing opportunity chances of promotion to the B-Tech (Hons) Degree holders and Diploma Holders Assistant Engineers on the analogy of other technical departments i.e. Irrigation Energy & Power and PHE Departments (Annex-VI).

*Attested True Copy*

**ATTESTED**



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In this context it is requested that in view of the above part of  
Agreement No. 1 of 1974 signed on 24.05.2018 that senior professional posts  
of the C&W Department are to be in promotion of Assistant Engineers (BS-17),  
including the B Term (BS-17) and Sub Engineers (except two (02) the post of Deputy  
Director (Inclusion) (BS-18) and one of the post of the Senior Engineer (Survey) (BS-17)  
(C&W Dept) are available against which the promotion in the referred posts can be  
considered under the referred service rules of Pakistan Judiciary. Moreover, as per  
17th quota under the existing service rules of C&W Department, 23 Nos posts of  
Assistant Engineers (BS-17) are to be filled by way of promotion from amongst the  
Tech (Hons) Sub Engineers.

5. In order to implement the above directions as well as High Level Committee  
recommendations, C&W Department suggest the following two proposals for placing  
before SSRC for its consideration and decision.

- 1. Standing Order No. 4 Rules Committee (SSRC) is requested to consider the  
amendment in the existing Service Rules of C&W Department, 2010 for  
promotion of Assistant Engineers (BS-17) including the B Term (Hons) and  
Engineers (BS-17) and professional posts in the department including  
the post of Deputy Director (Inclusion) and for this purpose a sub  
commission may be constituted to analyze and recommend the existing posts  
of the department in BS-18, 19 & 20 into purely professional and non  
professional posts and accordingly submit proposal for amendment in  
Standing Order No. 4 BS-18 of C&W Department.

OR  
Standing Order No. 4 Rules Committee (SSRC) is requested to consider the  
amendment in the existing Service Rules of C&W Department, 2010 for  
promotion of Assistant Engineers (BS-17) including the B Term (Hons) and  
Engineers (BS-17) according to their existing strength to BS-18 in the analysis  
of under the Department as recommended by the High Level Committee  
headed by Additional Chief Secretary.

*Sch Mirza*  
DEPUTY SECRETARY (ADMIN)  
C&W DEPARTMENT.

ATTESTED

*P...*

5. In this connection, C&W Department is the view. In light of operative part of Supreme Court of Pakistan judgment dated 24.05.2018 that non professional posts not exist in C&W Department to consider the promotion of Assistant Engineers (BS-17) holding the B-Tech-I (Hons) and Diploma Holders, except two (02 Nos post of Deputy Director Technical (BS-18) and one number post of Senior Engineer (Survey/ RMU) (BS-18) are available against which the promotion of the referred cadres can be considered under the referred Supreme Court of Pakistan judgment. Moreover, as per 10% quota under the existing service rules of C&W Department, 23 Nos posts of Assistant Engineers / SCOs (BS-17) are filed by way of promotion from amongst B-Tech (Hons) Sub Engineers.
6. In order to implement the court directions as well as High Level Committee recommendations. C&W Department suggest the following two proposals for placing before SSRC committee for deliberation and decision.
- i. Standing Service Rules Committee SSRC is requested to consider the amendment in the existing Service Rules of C&W Department 2010 for promotion of Assistant Engineers (Bs-17) holding the B-Tech (hons) and Diploma Holders against non professional posts in the department according to the judgment of Supreme Court of Pakistan for this purpose a sub committee may be consisted to analyze and differentiate the existing posts in C&W Department in BS-18, 19 & 20 into purely professional and non professional posts and accordingly submit proposal for amendment in promotion rules of BS-18 in C&W Department.
- OR
- ii. Standing Service Rules Committee (SSRC) is requested to consider the amendment in the existing Service Rules of C&W Department, 2010 for promotion of Assistant Engineer (BS-17) holding the (B-Tech) and Diploma holders according to their existing strength to their existing strength to BS-18 on the analogy of other the Departments as recommended by the High Level Committee headed by Additional Chief Secretary.

Sd/-  
Deputy Secretary (ADMN)  
C&W Department

*Attested True Copy*  
  
**ATTESTED**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

No. SUPPOLICY/E&AD/2-69/2022  
Dated Peshawar, the July 22, 2022

314

To

- The Secretaries to Government of Khyber Pakhtunkhwa.
1. Industries, Commerce & Technical Education Department.
  2. Communication & Works Department.
  3. Public Health Engineering Department.
  4. Home & Tribal Affairs Department.
  5. Science & Technology and Information Technology Department.

Subject:- MINUTES OF THE MEETING OF THE STANDING SERVICE RULES COMMITTEE HELD ON 01.06.2022

Dear Sir,

I am directed to refer to the subject and to state that a meeting of the Standing Service Rules Committee (SSRC) has been scheduled to be held on 29-07-2022 at 1100 hrs under the Chairmanship of Special Secretary (Regulation), Establishment Department in his office.

It is therefore, requested to kindly depute a well-conversant officer alongwith with complete record to attend the said meeting on the above mentioned date, time and venue. please


Yours faithfully,

  
SABIR AMIN  
SECTION OFFICER (POLICY)

ENDST: NO. & DATE EVEN:

Copy forwarded to:

1. Section Officers (Reg-I, III, V and VI) Establishment Department for necessary action.
2. PS to Secretary Establishment Department.
3. PS to Special Secretary (Regulation), Establishment Department.
4. PA to Additional Secretary (Regulation), Establishment Department.

  
SECTION OFFICER (POLICY)

  
**ATTESTED**

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**ATTESTED**  
  
ADVOCATE

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

No. SO(POLICYPE&AD/2-4/9/2022

Dated Peshawar, the July 22, 2022

To

The Secretariat of Government of Khyber Pakhtunkhwa.

1. Industries, Commerce & Technical Education Department.
2. Communication & Works Department.
3. Public Health Engineering Department.
4. Home & Tribal Affairs Department.
5. Science & Technology and Information Technology Department.

Subject: MINUTES OF THE MEETING OF THE STANDING SERVICE  
RULES COMMITTEE HOLD ON 01.06.2022.

Dear Sir,

I am directed to refer to the subject and to state that a meeting of the Standing Service Rules Committee (SSRC) has been scheduled to be held on 29-07-2022 at 1100 Hr under the Chairmanship of Special Secretary (Regulation), Establishment Department in his office.

It is therefore, requested to kindly depute a well conversant officer alongwith with complete record to attend the said meeting on the above mentioned date, time and venue, please.

Yours Faithfully,  
Sd/-  
Sabir Amin  
Section Officer (Policy)


Endst: No & Date Even:

Copy forwarded to:

1. Section Officers (REG-I, III, V and VI) Establishment Department for necessary action.
2. PS to Secretary Establishment Department.
3. PS to Special Secretary (Regulation, Establishment Department.
4. PA to Additional Secretary (Regulation), Establishment Department.

Sd/-  
Section Officer (Policy)

  
**ATTESTED**

Attested True Copy  




GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

316

No. SO (PSB) ED/1-25/2022/PSB  
Dated Pesliawar, the August 11, 2022

All Administrative Secretaries  
to the Govt. of Khyber Pakhtunkhwa.  
Subject: - **STREAMLINING OF PROVINCIAL SELECTION BOARD (PSB)  
MEETINGS.**

Dear Sir,

I am directed to refer to this Department letter of even No. dated 23.12.2021 on the subject and to say that the PSB meeting has been scheduled to be held in 1<sup>st</sup> week of September 2022. The working papers (complete in all respects) for promotion to be placed before the PSB meeting may be furnished well before the cut off date which is fixed as 20.08.2022. Most importantly, working papers of the officers who are at the verge of retirement and falling in the promotion zone must be forwarded on priority basis.

2. I am further directed to say that no working paper will be received after the mentioned cut off date and that the Administrative Department will be responsible for any delay in submission of working papers and the resultant deprivation of any officer from promotion/consideration.

Yours faithfully,

*[Signature]* 11.08.2022  
SECTION OFFICER (PSB)

**ENDST. EVEN NO. & DATE.**

copy is forwarded to

1. All Section Officers in Regulation Wing of Establishment Department.
2. PS to Secretary Establishment, Govt. Khyber Pakhtunkhwa
3. PS to Special Secretary Regulation Establishment Department.
4. PAs to Additional Secretaries (Reg-I, & II), Establishment Department.
5. PAs to Deputy Secretaries (Reg-I, II & III), Establishment Department.

*[Signature]*

*[Signature]*  
SECTION OFFICER (PSB)

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*[Signature]*  
**ATTESTED**

**ATTESTED**  
*[Signature]*  
**ADVOCATE**

317

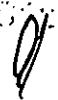
AGENDA OF SSRC MEETING

Date: 18<sup>th</sup> August, 2022

Venue: Special Secretary (Regulation), Establishment Department office.

SR.#	NAME OF DEPTT:	SUBJECT	DATE/TIME
1.	Higher Education Department.	5-Tier structure for College Teachers of Higher Education	18.08.2022 At 11:00 hrs.
2.	C&W Department	Services appeal No. 953/2018 Awaiz ur Rehman vs Govt of KPK through CS and others	18.08.2022 At 11:30 hrs.
		Minutes of the committee constituted under chairmanship of ACS P&DD 20.04.2022	18.08.2022 At 11:45 hrs.
		Insertion of the post of plumber against Sr. 24 in column-4(A) for promotion of the post of J.C in the existing service Rules of C&W Department.	18.08.2022 at 12:15 hrs.
3.	ST & IT Deptt:	Framing of service rules for one newly created post of Dy. Director (Network) BS-18 at Directorate of ST&IT	18.08.2022 At 12:30 hrs.
4.	PHE Department	Framing of service rules for newly created post of Supervisor and Dy. Director (Technical).	18.08.2022 At 12:45 hrs.
5.	Board of Revenue	Amendment in Tehsildar/Naib Tehsildar and Ministerial service Rules.	18.08.2022 At 01:00 hrs.

  
**ATTESTED**

  
SECRETARY

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3/8

46


AGENDA OD SSRC MEETING

Date: 18<sup>th</sup> August, 2022

VENUE: Special Secretary (regulation), Establishment Department Office

SR #	NAME OF DEPTT:	SUBJECT	DATE/TIME
1	Higher education department	5-Tier structure for college teachers of the Higher Education	18/08/2022 At 11:00 hrs
2	C & W	Services Appeal No. 953/2018 Awais ir Rehman vs Govt Of kpk through CS and others	18/08/2022 At 11:00 hrs
		Minutes of the Committee constituted under chairmanship of ACS P&DD 20/04/2022	18/08/2022 At 11:00 hrs
		Insertion of the post of plumber against Sr. 24 in column -04 (A) for promotion of the post of J.C in the exising service rules of C&W Department	18/08/2022 At 11:00 hrs
3	ST & IT Deptt	Framing of service rules for one newly created post of Dy. Director (Network) BS-18 at Directorate	18/08/2022 At 11:00 hrs
4	PHE Department	Framing of Service rules for newly created post of supervison and Dy. Director (technical)	18/08/2022 At 11:00 hrs
5	Board of Revenue	Amendment in Tehsildar/Naib Qasid Tehsildar and Misistrial Service Rules.	18/08/2022 At 11:00 hrs

ATTESTED

Attested True Copy  




319

GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the August 19, 2022

**NOTIFICATION:**

No.SOE/C&WD/1-5/2017: In pursuance of sub-section (2) of section 13A of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act, No. XVIII of 1973), read with sub-section (3) thereof, Mr. Shaukat Ullah Shah Assistant Engineer (BS-17) O/O Chief Engineer (Centre) C&W Peshawar shall stand retired from Government Service with effect from 27.08.2022 on attaining sixtieth (60<sup>th</sup>) year of age, as his date of birth is 28.08.1962.

SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (Centre) C&W Peshawar
3. Officer concerned
4. PS to Secretary, C&W Peshawar
5. Office order File/Personal File

  
SECTION OFFICER (Estb)

  
ATTESTED

ATTESTED

  
ADVOCATE



320

PS/Secy ERAD KP

Dir. No. 667/20

PTS No. \_\_\_\_\_

Date. 15-8-22

To  
ساجد سعید  
15-8-22

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Establishment Department Civil Secretariat,  
Peshawar.

Subject: - **PROMOTION OF MR. SHAUKATULLAH SHAH SDO (BPS-17) OF C&W DEPARTMENT KHYBER PAKHTUNKHWA TO BPS-18 AS EXECUTIVE ENGINEER, WHO IS RETIRING FROM GOVT. SERVICE ON 28<sup>TH</sup> AUGUST, 2022.**

Yours Excellency,

It is very humbly and hopefully requested to your good self to consider my genuine request of promotion on humanitarian basis to save me from further torture. Detailed facts of my case are as follows: -


1. I joined my service in C&W Department as a Sub Engineer in 1988 and after 25 years hard workmanship I improved my qualification and acquired B.Tech (Hons) Degree and on the basis of this Degree I got promotion to the post of SDO BPS-17 on 4<sup>th</sup> November 2016 vide Notification No.SOE/C&W/4-2/2016 (SDOs) (Annex-A).
2. After very efforts, a meeting of the Standing Service Rule Committee (SSRC) regarding amendment in the appointment and recruitment Rules, 2010 of C&W Department was scheduled to be held on 28.11.2017 vide Section Officer (Estt), C&W Department Khyber Pakhtunkhwa letter No.SOE/C&WD/8-12/2017 dated 27.11.2017 (Annex-B), but it is very sadly stated that the said meeting was intentionally delayed and not convened till date.
3. When I was tired / badly failed and found no way, then I knocked the doors of Court and filed a Writ Petition No.2707-P/2021 in Peshawar High Court Peshawar and lastly decided by "D.B" in its judgment on 24.03.2022 with the following directions: -

- ✓ To consider various aspects of the issue in the prevailing circumstances of B.Sc/B.Tech Engineers.
- ✓ To look into the various Courts judgments passed with regard to B.Sc/B.Tech Engineers as per merits of the case.
- ✓ To consider the issue in the light of available Service Rules.
- ✓ To consider any other issue pertaining to the subject matter.
- ✓ The Committee shall finalize its recommendations with viable proposals for perusal of the competent authority within 30 days".

Albeit despite lapse of about 8 months, the matter has not yet been finalized. Accordingly the Committee is directed to finalize its recommendations within 60 days positively (Annex-C).

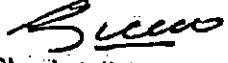
  
**ATTESTED**

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**ATTESTED**  


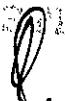
4. In light of the above judgment, a high level Committee was constituted under the Chairmanship of Additional Chief Secretary P&D Department, Khyber Pakhtunkhwa wherein the issue was discussed in its meeting held on 20.04.2022, minutes issued vide Section Officer (Reg-V), Establishment & Admn: Department (Reg: Wing) letter No.SOR-V(E&AD)/7-1/Irrig; dated 10.06.2022 (Annex-D). After threadbare discussion, the Committee unanimously recommended that C&W Department may review its existing service rules by providing opportunities/chances of promotion to the B.Tech (Hons) degree holders on the analogy of other technical Departments i.e. Irrigation, Energy & Power and PHE Departments. But after a lapse of about 60 days, no SSRC meeting has been convened due to unknown reasons.
5. It is worth to mention here that a letter for SSRC meeting to be held on 29.07.2022 was issued vide Section Officer (Policy), Establishment Department letter No.SO(POLICY)/E&AD/2-69/2022, dated 22.07.2022 (Annex-E) but it was postponed and rescheduled on 5<sup>th</sup> August, 2022 which was again postponed due to bad intentions and no clear cut date has been confirmed so far.
6. Now, a Provincial Selection Board (PSB) meeting has been scheduled in the 1<sup>st</sup> week of September, 2022 for which working papers of the officers who are at the verge of retirement and falling in the promotion zone are most importantly/on priority basis required to be submitted before the cut off date which is fixed as 20.08.2022, vide Section Officer (PSB), Establishment Deptt: letter No.SO(PSB)ED/1-25/2022/PSB, dated 11.08.2022 (Annex-F).
7. Sir, the undersigned is also at the verge of retirement (on 28.08.2022) (at least 2 weeks left) and falls in the promotion zone as my name is appearing at Serial No.2 of the seniority list of B.Tech (Hons) Degree holders and as such how is it possible to be consider me for promotion if initial criteria that is "SSRC" not yet finalized and my promotion is hanging since 2017.
8. Keeping in view the above circumstances, the undersigned is knocking the doors of your good self with the request that if SSRC is not possible at this stage, my case may kindly be considered on humanitarian ground for promotion simply "with the summary circulation". I shall pray for your long life and prosperity for this act of kindness please.

Dated: 12/08/2022

  
 (Shaukatullah Shah)  
 Sub Divisional Officer  
 B.Tech (Hons) Degree Holder  
 O/O Secretary C&W Deptt:  
 Khyber Pakhtunkhwa

  
**ATTESTED**

Scanned with CamScanner

**ATTESTED**  
  
**ADVOCATE**

322

IN THE PESHAWAR HIGH COURT PESHAWAR

CM No. 229-P/2022  
In W.P No. 2707-P/2021

Shaukat Ullah Shah and another

**VERSUS**

Government of Khyber Pukhtunkhwa & Others

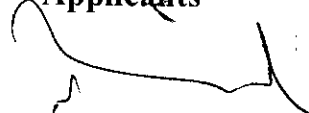
**INDEX**

S.No	Subject	Annexure	Page No.
1	CMA in Writ Petition		1-3
2	Affidavit		4
3	Vakalatnama		

Dated:

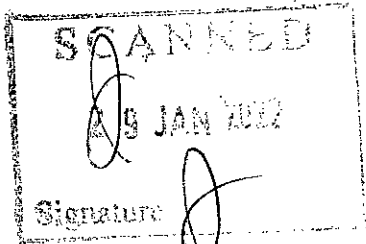
Through

**Applicants**



**Qaz Jawad Ehsanullah**

Advocate Supreme Court of Pakistan  
Office 17-A The Mall Peshawar Cantt  
Cell No. 0300-3950682



**FILED TODAY**

Deputy Registrar

28 JAN 2022

**ATTESTED**

323

IN THE PESHAWAR HIGH COURT PESHAWAR

CM No. 229-F/2022  
In W.P No. 2707-P/2021

Shaukat Ullah Shah and Others

.....PETITIONERS

VERSUS

Government of Khyber Pukhtunkhwa & Others

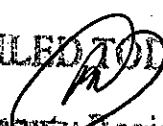
.....RESPONDENTS

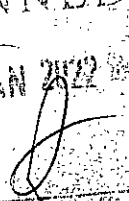
-----  
APPLICATION FOR IMPLEADMENT OF APPLICANTS NAMED IN  
THE BOTTOM OF THIS APPLICATION AS RESPONDENTS IN THE  
SUBJECT WRIT PETITION  
-----

Respectfully Sheweth;

1. That the subject Writ Petition is pending adjudication in this august court and is fixed for hearing on 09.02.2022.
2. That in substance the writ petitioners have *inter alia* questioned the process of promotion of the applicants herein whose documents have been sent for the upcoming PSB / DPC and in effect they are trying to thwart the process of promotion process of the present applicant by abusing the process of the court.
3. Since PERs etc. of the applicants herein have been send for promotion to the next higher grade, they are, therefore, necessary party to the subject petition and they crave that they may be heard while deciding the main writ petition.

  
**ATTESTED**

**FILED TODAY**  
  
Deputy Registrar  
28 JAN 2022

**SCANNED**  
28 JAN 2022  
Signature 

324

4. That names and official designation of each of the applicant praying for being impleaded as respondents in the subject writ petition is given in the bottom of this Civil Misc. Application.

It is therefore respectfully prayed that the applicants herein may please be arrayed as respondent party in main writ so that they could avail an opportunity of hearing before the august court in the subject case.

### Applicants

1. Engineer. Faizan Akbar (BPS-17)  
Section Officer (Roads C&W)  
Peshawar.
2. Engineer. Hassan Sardar (BPS-17)  
SDO, H/W Division (C&W)
3. Engineer. Muhammad Zuhair (BPS-17)  
SDO Building-I C&W Peshawar
4. Engineer Baber Saleem (BPS-17)  
SO (B) C&W Peshawar
5. Engineer Shams-Ur-Rahman (BPS-17)  
SDO H/W C&W Department  
Mohmand
6. Engineer Shiva (BPS-17)  
SDO, H/W D.I Khan C&W Department
7. Engineer Ram Chand (BPS-17)  
SDO Building Dir (L) C&W  
Department Peshawar
8. Engineer Jehan Zeb (BPS-17)  
SDO, Road Peshawar
9. Engineer Jawad Ali (BPS-17)  
SDO, Highway C&W Peshawar
10. Engineer Khushdil Khan (BPS-17)  
C&W Peshawar
11. Engineer Akbar Mehboob Khattak  
(BPS-17) SDO (H) Mardan C&W  
Peshawar

  
**ATTESTED**

**FILED TODAY**  
  
**Deputy Registrar**

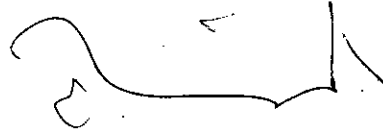
**28 JAN 2022**

325

12. Engineer Nasir Iqbal (BPS-17) SDO  
Building Matta Swat C&W, Peshawar

13. Engineer Muhammad Ayaz (BPS-17)  
SDO C&W Peshawar

Through



**Qazi Jawad Ehsanullah**  
Advocate Supreme Court, Peshawar

FILED TODAY  
Deputy Registrar  
28 JAN 2022

  
**ATTESTED**

326

IN THE PESHAWAR HIGH COURT PESHAWAR

CM No. 229 f /2022  
In W.P No. 2707-P/2021

Shaukat Ullah Shah and others

VERSUS

Government of Khyber Pukhtunkhwa & Others

AFFIDAVIT

I, Engineer. Faizan Akbar Section Officer (Roads C&W) Peshawar do hereby declare on oath that the contents of this Impleadment application are true and correct to the best of my knowledge and belief and that nothing has been intentionally concealed from this august Court.

*Faizan Akbar*

**DEPONENT**

Engineer Faizan Akbar

CNIC No. 16201-6721663-7 ✓

Cell No. 0333-9867155

IDENTIFY BY:

*Muhammad Waqas*  
**Muhammad Waqas**  
Advocate High Court

No: 1876

Certified that the above was verified on solemnly affirmation before me in office this 27 day of Jan 2022 by Faizan Akbar s/o Shaukat who was identified by M. Waqas Who is personally known to me

*[Signature]*  
Oath Commissioner  
Peshawar High Court Registrar

FILED TODAY  
Deputy Registrar  
28 JAN 2022

27/01/2022

*[Signature]*  
**ATTESTED**

327

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P No.2707-P/2021

CM. No. \_\_\_\_\_/2022

For;- Impliment Respondents

Bc- No. 14-4727 CNIC No. 16102 3687580-1

Cell No. 0300-3950682

Shaukat Ullah Shah & others

V/S

Govt of Khyber Pakhtunkhwa & Others

We Respondents do hereby appoint, **Qazi Jawad Ehsanullah ASC, Salman Fayaz Mir Advocate and Muhammad Waqas Advocate High Court**, in the above mentioned case, to do all or any of the following acts, deeds and things:-

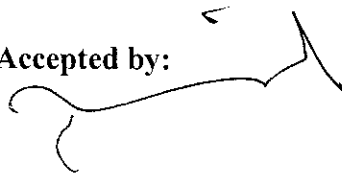
- 1- To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
- 2- To sign and verify and file or withdraw all proceeding, petitions, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
- 3- To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.

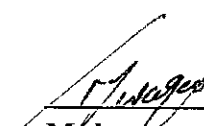
AND hereby agree:-

**That** the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remain unpaid.

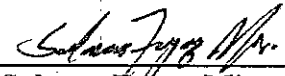
**In witness** whereof I/We have signed this vakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this day of 18<sup>th</sup> January, 2022.

Accepted by:

  
\_\_\_\_\_  
Qazi Jawad Ehsanullah  
Advocate Supreme Court

  
\_\_\_\_\_  
Muhammad Waqas  
Advocate High Court

  
\_\_\_\_\_  
**ATTESTED**

  
\_\_\_\_\_  
Salman Fayaz Mir  
Advocate High Court

  
\_\_\_\_\_  
**FILED TODAY**

Deputy Registrar

28 JAN 2022



S.No.	Name	Designation	Signature
1	Faizan Akbar	Section Officer (Roads) Cnw	
2	Hassan Souday	SDO H/W Dirmun Nur	
3	MUHAMMAD ZUHAYR	SDO BUILDING-I Peshawar	
4	Babar Saleem	SO (B)	
5	Shams Ur Rehman	SDO H/W Mardam	
6	SHIVA	SDO H/W D. i. Khan	
7	Ram Chand	SDO Building Dir (L)	
8	Jeham-zeb	SDO / Road - Engineer Kite	
9	Jawad Ali	SDO Highway Nsr	
10	Khushdil Khan	SDO Building Nourpur	
11	AKBAR-MEMBORD KHATTAN	SDO H/W Mardam	
12	Nasir Iqbal SDO (Building)	SDO (Building) Mulla Swat	
13	M. Ayaz	SDO C&W Division-1 Swat	
14	 <b>ATTESTED</b>	<b>FILED TODAY</b> Deputy Registrar	
15		28 JAN 2022	

329

In The Peshawar High Court Peshawar

C.M No 2100/P/2021

W. P No. 2707-P/2021

Shaukat Ullah Shah & others

Vs

Government of Khyber Pakhtunkhwa & others

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1.	Application for Interim Relief		1-2
2.	Affidavit		3
3.	Copy of Letter dated 21-06-2021	A	4
4.	Copy of letter dated 09-07-2021	B	5
5.	Copy of letter dated 21-09-2021	C	6
6.	Copy of Order dated 24-09-2021		7-8

RE-FILED TODAY  
Deputy Registrar  
18 OCT 2021

Petitioner

Through

Mubashir Manzoor  
Advocate, High Court

Scanned USB Received  
16 OCT 2021  
Signature

FILED TODAY  
Deputy Registrar  
16 OCT 2021

ATTESTED



330

**In The Peshawar High Court Peshawar**

C.M. No. <sup>21008</sup> /21

In

W.P. No. 2707 /21

Shoukat Ullah & Others

.....*Petitioner*

Versus

Government of Khyber Pakhtunkhawa

.....*Respondents*

**Application for Interim Relief**

Respectfully Sheweth;

1. That the accompanied Writ Petition is being filed in this Honourable Court and the grounds taken therein may kindly be considered as an integral part of this application.
2. That the petitioners have got an excellent prima-facie case and there is every likelihood of the writ petition being accepted.
3. That the petitioners after rendering almost 32 Years of service in the Department of Respondent No.4 are the senior most SDOs with B.Tech(Hons) degree in the seniority list maintained by the department.
4. That the respondent No 4 vide letter No.SOE/C&WD/4-5/72 dated 21-06-2021 forward working paper for promotion of B.Tech(Hons) Assistant Engineers /SDOs(BS-17 to the rank of Deputy Director (BS-18) technical Communication & Works Department.

**FILED TODAY**  
*[Signature]*  
**Deputy Registrar**  
 16 OCT 2021

(Copy of Letter dated 21-06-2021 is Annexed as Annexure "A")

**ATTESTED**

5. That subsequently after filling of instant Writ Petition Respondent No 4 vide letter No.SOE/C&WD/4-5/72 dated 9-07-2021 cancel/withdrawn the department letter of even number dated 21-06-2021.

(Copy of Letter Dated 09-07-2021 is annexed as Annexure "B")

331



6. That the Respondent No 4 at first phase initiated promotion case of PEC Engineers to higher grades and subsequently 42 numbers of Assistant Enginners/SDOs were promoted to the post of Executive Engineers (BPS-18) on 5<sup>th</sup> August 2021.
7. That the petitioners have time and again approached Respondent No 4 for their promotion to the Post of XEN and other alike categories of BPS-18 but with no fruitful result.
8. That the Respondent No 4 i.e. Secretary Communication & Works Department who is BSc Engineer by qualification malafidely being biased on the subject matter as the issue relates to the BSc Engineering and B.Tech & Diploma Holders therefore, Respondent No 4 is reluctant to promote the petitioners.
9. That Respondent No 4 just to deprive the petitioners from promotion to higher grades has again initiated process of promotion of PEC qualified Assistant Engineers/SDO, s (BPS-17) to the post of XEN and other alike categories of BPS-18.

(Copy of Letter No SOE/C&WD/4-2/2021 dated 21-09-2021 is annexed as Annexure "C")

10. That the promotion issue of PEC Engineers and B.Tech Hons is pending before this honourable court in a case title **Aman Ullah and others versus Government of Khyber Pakhtunkhawa W.P No 3943-P/2021** wherein interim relief is granted by this honourable court on 24-09-2021 reproduced for perusal of this honourable court

***INTERIM RELIEF***

*Notice, meanwhile, respondents shall continue with the process, however no final order shall be passed.*

11. That the balance of convenience also tilts heavily in favour of the petitioners.

It is therefore, most humbly prayed, that on acceptance of this application this August Court may graciously be pleased to restrain the respondents not to issue final order till the final decision of the main petition.

Petitioner

**ATTESTED**

Through

Mubashir Manzoor  
Advocate High Court

FILED TODAY  
Deputy Registrar  
16 OCT 2021

332

3

In The Peshawar High Court Peshawar

CM.No. 2100 P/21

In

W.P No.2707/2021

Shoukat Ullah Shah & Others

Versus

Government of Khyber Pakhtunkhawa

AFFIDAVIT

I Shoukat Ullah Shah S/o Syed Yaqoob , Assistant Engineer, Civil & Works Department , Government of Khyber Pakhtunkhawa do hereby solemnly affirm and declare on oath that the contents of the writ petition are true and correct and nothing has been concealed from this Honorable Court.

Deponent

*Shoukat Ullah Shah*

Identified By

Mubashir Manzoor  
Advocate High Court  
Peshawar

CNIC# 11201-0376771-9

Cell no: 0333-9125822

3744

Certified that the above was verified on solemnly affirmation before me in office, this 16 day of Oct 2021 by Shoukat Ullah Shah s/o Syed Yaqoob Shah Peshawar who was identified by Mubashir Manzoor who is personally known to me.

*[Signature]*  
Oath Commissioner  
Peshawar High Court, Peshawar

16/10/2021

ATTESTED

FILED TODAY  
Deputy Registrar  
16 OCT 2021

333

*[Handwritten signature]*

GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-5/72  
Dated Peshawar, the June 21, 2021



To

The Section Officer (PSB)  
Establishment & Admn Department  
Peshawar

Subject: PROMOTION OF B-Tech (Hons) ASSISTANT ENGINEERS / SDOs  
(BS-17) TO THE RANK OF DEPUTY DIRECTOR BS-18 (TECHNICAL)  
C&W DEPARTMENT ON REGULAR BASIS

I am directed to refer to the subject noted above and to forward herewith working paper (07 sets) along with related documents duly completed in all respect for promotion of B-Tech (Hons) Assistant Engineers/SDOs (BS-17) to the rank of Deputy Director (BS-18) Technical on regular basis for placing before Provincial Selection Board (PSB) for consideration please

*[Signature]*  
17-6-2021  
(ZAHOR SHAH)  
SECTION OFFICER (Estb)

Encl even No. & date

Copy forwarded to the

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

*[Signature]*  
**ATTESTED**

334

Answer 2021



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT  
No. SOE/C&WD/4-5/72  
Dated Peshawar, the July, 09, 2021

To

The Section Officer (PSB),  
Establishment Department,  
Peshawar.

Subject: PROMOTION OF B-TECH (HONS) ASSISTANT ENGINEERS/SDOS  
(BS-17) TO THE RANK OF DEPUTY DIRECTOR BS-18 (TECHNICAL)  
C&W DEPARTMENT ON REGULAR BASIS.

I am directed to refer to the subject noted above and to inform that this Department's letter of even number dated. 21.06.2021 may be considered as cancel/withdrawn.

2. I am further directed to request that the case may be returned (in original) along with relevant documents, please.

*Zahoor Shah*

09.7.2021

(ZAHOOR SHAH)

Section Officer (Estab)

Copy for information to:-

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

*ATTENDED*

Section Officer (Estab)

*[Signature]*  
ATTESTED

335

*[Handwritten signature]*



GOVT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-2/2021  
Dated Peshawar, the Sept 21, 2021

To

Engr. Shahid Nawaz  
SDO O/O XEN Building Division No.II  
Peshawar

Subject

**PROVISION OF PERFORMANCE EVALUATION REPORTS**

I am directed to refer to the subject noted above and to state that the working paper for promotion of Assistant Engineers/SDOs (BS-17) to the rank of Executive Engineer (BS-18) is pending for want of provision of your PERs for the following periods:

i. 19.05.2014 to 31.12.2020

2. It is, therefore, requested that the Performance Evaluation Reports may be provided to this Department within a week time positively, so that the case of promotion can be placed before the Provincial Selection Board (PSB) for consideration

*Zahoor*  
21.9.2021

(ZAHOOR SHAH)  
SECTION OFFICER (Estb)

Endst even No. & date

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

*[Signature]*  
ATTESTED

*[Signature]*  
SECTION OFFICER (Estb)

ATTESTED  
*[Signature]*



PESHAWAR HIGH COURT, PESHAWAR  
FORM "A"  
FORM OF ORDER SHEET.

336

Court of .....  
Case No: .....

Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of judge or Magistrate and that of parties or counsel where necessary
1	24.09.2021.	<p data-bbox="1006 461 1031 498">3</p> <p data-bbox="714 535 990 598"><u>WP No. 3943-P/2021.</u></p> <p data-bbox="714 623 836 672"><u>Present:-</u></p> <p data-bbox="893 660 1323 760">Mr. Zartaj Anwar Advocate, for the petitioners.</p> <p data-bbox="893 760 1323 897">Qazi Jawad Ehsanullah Advocate, for the applicants in CM No.1872-P/2021.</p> <p data-bbox="974 922 1039 946">****</p> <p data-bbox="893 934 1323 1009">Let comments of respondents No.1 to 4 be called for, so as to reach this Court within a fortnight. Adjourned to <u>13.10.2021.</u></p> <p data-bbox="714 1084 1177 1158"><u>Interim Relief.</u> Notice. Meanwhile, respondents shall continue with the process; however, no final order shall be passed.</p> <p data-bbox="714 1383 1023 1457"><u>CM No.1872-P/2021.</u></p> <p data-bbox="714 1420 1339 1781"><u>S M ATTIQUE SHAH , J:-</u> Through instant application (CM) applicants/petitioners seek their impleadment in the panel of respondents of main writ petition being necessary party. As such, this application is allowed and all the petitioners</p>

^

ATTESTED

  
**ATTESTED**



mentioned in the application are impleaded as respondents being necessary parties in the main writ petition; with direction to the office to make necessary entries in this regard in the heading of the main writ petition with red ink. The impleaded respondents would be at liberty to file written reply if so desired.

*[Signature]*  
JUDGE

*[Signature]*  
JUDGE

"A Qayum PS"

(DB)

Hon'ble Mr. Justice S M Amique Shah & Hon'ble Mr. Justice Syed Arshad Ali.

ATTESTED  
*[Signature]*

*[Signature]*  
**ATTESTED**



338

In The Peshawar High Court Peshawar

C.M. No. 1772/21

In

W.P. No. 2707 /21

Shoukat Ullah & Others

.....Petitioner

Versus

Government of Khyber Pakhtunkhawa

.....Respondents

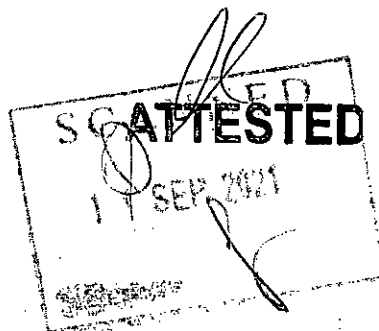
**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Application For Additional Documents		1
2.	Affidavit		2
3.	Copy of Notification dated 07-09-2021	A	3
4.	Copy of letter dated 05-03-2018	B	4
5.	Copy of letter dated 14-03-2018		5
	Copy of Notification dated 26-03-2018		6
6.	NWFP Appointment, Promotion and Transfer Rules ,1989		7-10
7.	Notification dated 05 August 2021		11-13

Petitioner

Through

**Mubashir Manzoor**  
Advocate, High Court.



FILED TODAY  
Deputy Registrar  
10 SEP 2021

In The Peshawar High Court Peshawar

C.M. No. 1772/21

339

In

W.P. No. 2707 /21

Shoukat Ullah & Others

.....Petitioner

Versus

Government of Khyber Pakhtunkhawa

.....Respondents

**APPLICATION FOR PLACING ON FILE AND**  
**CONSIDERATION OF ADDITIONAL DOCUMENTS**

The above named petitioner respectfully submits that;

1. The captioned writ petition is pending adjudication before this honourable Court.
2. Recently, the petitioner has received a copy of few documents, which pertains to the subject matter of the instant writ petition.

**Annex-A & B refers.**

3. Since the captioned writ petition has not yet been disposed of, it is crucial that the said letter be taken into consideration while deciding the same to meet the ends of justice.

It is therefore, most humbly prayed that documents attached may graciously be taken into consideration while disposing of the instant writ petition.

Dated: 10 September 2021

**ATTESTED**

Petitioner  
Through

Mubashir Manzoor  
Advocate High Court

FILED TODAY  
Deputy Registrar  
10 SEP 2021

340



IN THE PESHAWAR HIGH COURT PESHAWAR

C.M. No. 1772/21

In

W.P. No. \_\_\_\_\_/21

Shoukat Ullah Shah & Others

Versus

Government of Khyber Pakhtunkhawa

AFFIDAVIT

I Shoukat Ullah Shah S/o Syed Yaqoob , Assistant Engineer, Civil & Works Department , Government of Khyber Pakhtunkhawa do hereby solemnly affirm and declare on oath that the contents of the writ petition are true and correct and nothing has been concealed from this Honorable Court.

*Suees*  
Deponent 16/9/2021

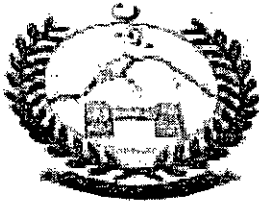
Identified By

Mubashir Manzoor  
Advocate High Court  
Peshawar

CNIC # 11201-03767719

FILED TODAY  
Deputy Registrar  
10 SEP 2021

No. 34652
Certified that the above was verified on solemnly affirmation before me in office this 10 <sup>th</sup> day of Sep 2021 Shoukat Ullah Shah Peshawar
by Syed Yaqoob Mubashir Manzoor
ATTESTED
10/9/2021



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMIN. DEPARTMENT  
(REGULATION WING)

Dated Peshawar, the 07<sup>th</sup> September, 2021

**NOTIFICATION**

**No. SOR-V(E&AD)7-1/2021**: In order to address the issues of B.Sc/B.Tech Engineers, the competent authority is pleased to constitute a Committee comprising of the following:-

- |                                                              |          |
|--------------------------------------------------------------|----------|
| i. Additional Chief Secretary P&D Department                 | Chairman |
| ii. Principal Secretary to Chief Minister Khyber Pakhtunkhwa | Member   |
| iii. Secretary, Establishment Department                     | Member   |
| iv. Secretary, Law Department                                | Member   |
| v. Co-opted Member as deemed by the Committee                | Member   |

**TORs of the Committee**

- To consider various aspects of the issue in the prevailing circumstances of B.Sc/B.Tech Engineers.
- To look into the various Courts judgments passed with regard to B.Sc/B.Tech Engineers as per merits of the case.
- To consider the issue in the light of available Service Rules.
- To consider any other issue pertaining to the subject matter.
- The committee shall finalize its recommendations with viable proposals for perusal of the competent authority within 30 days.

Chief Secretary  
Khyber Pakhtunkhwa

**Encl: No. & Date even.**

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department
4. Secretary to Govt. of Khyber Pakhtunkhwa Law Department.
5. PS to Chief Secretary Khyber Pakhtunkhwa.
6. PS to Secretary, C&W Department).
7. PS to Secretary, Irrigation Department.
8. PS to Secretary, PHE Department.

**ATTESTED**

DEPUTY SECRETARY (REG-III)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

NO.SOE/C&W/08-12/SSRC /2018  
Dated 05.03.2018

342

To

The Secretary,  
Law Department,  
Government of Khyber Pakhtunkhwa

**SUBJECT: AMENDMENT IN THE RECRUITMENT RULES-  
RESERVATION OF 20% QUOTA FOR PROMOTION OF B-  
TECH (HONS) SDOS (BS 17) TO THE POST OF EXECUTIVE  
ENGINEER(BS-18)**

Dear Sir,

I am directed to refer to the law department letter No. Reg:1(2)79/C&W/Vol-II/29204-06 dated 24-10-2017 on the subject noted above and to forward herewith a copy of Pakistan Engineering Council letter No. PEC/Coord/KPK/C&W/2018 dated 30.01.2018 (which is self-explanatory) with the request to render advice of the law department as to whether the case pertaining to the reservation of 10% quota for promotion of B-Tech (Hons) SDOs (BS-17) to the post of XEN (BS-18) may be placed before the SSRC or otherwise.

ENDST OF EVEN NO. & DATE

Copy forwarded to:

1. P.S to Secretary, C&W Department

*Mid u*  
SECTION OFFICER (Estb.)

*Mid u*  
SECTION OFFICER (Estb.)

*ll*  
**ATTESTED**

*Droshod*  
5/3/18

**ATTESTED**



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**GOVERNMENT OF THE KHYBER PAKHTUNKHWA,  
LAW, PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT**

No. Reg: 1(1)79/C&W/Vole-II/15179-80/15  
Pesh : Dated: The : 14-03-2018

To

The Secretary,  
Government of Khyber Pakhtunkhwa,  
Communication and Works Department.

Disposal 2856  
15-3-2018  
Secretary C&W Deptt.

DA  
16/3 AS/DA

SUBJECT: Amendment in the Recruitment Rules Reservation of 20% Quota for Promotion of B-Tech (Hons) SDOS (BPS-17) to the Post of Executive Engineer (BPS-18).

Dear Sir,

I am directed to refer to your Department letter No.SOE/C&W/08-12/SSRC/2018, dated: 05-03-2018 on the subject noted above and to state that this Department has already communicated its views regarding the subject vide its letter No.Reg:1(1)79/C&W/Vole-II/29204-06, dated:24-10-2017 (copy enclosed).

SOE/leg  
16/3

Yours faithfully,

(UMAR ALI)

ASSISTANT LEGAL DRAFTER-I

Ends: No. & date even:-

- Copy is forwarded for information to:
1. PS to Secretary, Government of the Khyber Pakhtunkhwa Law Department.
  2. PA to Legal Drafter, Law Department.
  3. P.A to Deputy Legal Drafter-I, Law Department w/r to Legis No.503, dated: 6-3-2018.

ASSISTANT LEGAL DRAFTER- I

**ATTESTED**

**ATTESTED**



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GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the March 26, 2018

**NOTIFICATION:**

No SOE/C&WD/8-12/2014. In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Communication & Works Department, in consultation with the Establishment Department and the Finance Department, hereby directs that in this Department Notification No SOE/C&WD/8-12/2009, dated 25<sup>th</sup> March, 2010, the following further amendments shall be made namely

**AMENDMENTS**

In the Appendix -

i. against serial No.4, in column No.5, for the existing entries, the following shall be substituted, namely:

- (a) Sixty five percent (65%) by initial recruitment
- (b) sixteen and half percent (16.50%) by promotion, on the basis of seniority-cum-fitness from amongst the Sub Engineers who hold a Diploma of (Civil, Mechanical or Electrical) and have passed Departmental Professional Examination with 10 (ten) years service as such
- (c) Five percent (5%) by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers who possess Degree of B.E or B.Sc. Engineering (Civil, Mechanical or Electrical) at the time of their joining service and have passed Departmental Professional Examination with 05 (five) years service as such;
- (d) three and half percent (3.5%) by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers who acquired Degree of B.E or B.Sc. Engineering (Civil, Mechanical or Electrical) during service and have passed Departmental Professional Examination with 05 (five) years service as such, and
- (e) ten percent (10%) by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers having Degree of B-Tech (Hons) and have passed Departmental Professional Examination with 05 (five) years service as such;

ii. against serial No.26, in column No.5, for the existing entries, the following shall be substituted, namely:

"By promotion on the basis of seniority-cum-fitness, from amongst the Naib Qasids, Chowkidars and Barkandaz having qualification of Secondary School Certificate with at least three years service as such

Note:- A joint seniority list of Naib Qasids, Chowkidars and Barkandaz shall be maintained for the purpose of promotion"

iii. against serial No.28, the following new serial shall be inserted, namely:

29	Barkandaz	Preferably literate	18 to 45 years	By initial recruitment"
----	-----------	---------------------	----------------	-------------------------

SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

Ends of even number and date

Copy is forwarded to the -

1. All Administrative Secretaries, Govt of Khyber Pakhtunkhwa
2. Secretary to Governor Khyber Pakhtunkhwa, Peshawar
3. Principal Secretary to Chief Minister Khyber Pakhtunkhwa, Peshawar
4. All Chief Engineers C&W Peshawar
5. Chief Engineer (FATA) W&S Peshawar
6. Chief Engineer (East) C&W Abbottabad
7. Secretary Khyber Pakhtunkhwa Public Service Commission Peshawar
8. All Superintending Engineers C&W Circles
9. All Executive Engineers C&W/Highway Divisions
10. Section Officer (R-VI) Establishment Department Peshawar
11. Assistant Legal Drafter-I, Law Department Peshawar
12. Manager Printing Press for publication in the issue of next Govt gazette. He is requested to provide 25 printed copies of the Notification, preferably gazetteed copies, when published to this Department along-with the details of the gazettee in which they are published
13. PS to Chief Secretary Khyber Pakhtunkhwa Peshawar
14. PS to Secretary C&W Department Peshawar
15. PA to Addl. Secretary C&W Department Peshawar
16. PA to Deputy Secretary (Admn) C&W Department Peshawar
17. Office File

ATTESTED

ATTESTED

(ABDUR RASHID KHAN)  
SECTION OFFICER (Estb)

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BETTER COPY

EXTRAORDINARY

REGISTERED NO. P.III

GOVERNMENT

GAZETTE



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 15<sup>TH</sup> APRIL, 2019.

GOVERNMENT OF NWFP  
COMMUNICATION & WORKS DEPARTMENT

NOTIFICATION

Dated: 25<sup>th</sup> March, 2010.

No.SOE/C&WD/8-12/2009--- In pursuance of the provisions contained in sub rule (2) of Rule-3 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all previous rules, issued in this behalf, the Communication & Works Department in consultation with establishment Department and Finance Department hereby lays down, the method of recruitment, qualification and other conditions specified in columns 3 to 5 of the Appendix to this Notification which shall be applicable to posts in column 2 of the said Appendix.

Secretary to Govt of NWFP  
Communication & works Department.

*ll*  
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1. ENGINEERING SERVICE

APPENDIX

Sl. No.	Nomenclature of Post	Minimum Qualification Required for Appointment/Promotion	Age Limit	Method of Recruitment
1	2	3	4	5
1.	Chief Engineer	-	-	Bye selection, on merit from amongst Superintending Engineers/ Principal Design Engineers, with at least 17 (seventeen) years of service in BPS-17 and above, possessing Degree in B.E/B.Sc Engineering (Civil) from a recognized University.
2.	Superintending Engineer/ Principal Design Engineer	-	-	By promotion, on the basis of seniority-cum-fitness, from amongst the Executive Engineers/ Design Engineers/ Senior Engineers/ Research Officers with at least 12 (twelve) years of service in BPS-17 and above, possessing Degree in B.E/ B.Sc Engineering (Civil/ Mechanical/ Electrical) from a recognized University.
3.	Executive Engineer/ Design Engineer/ Senior Engineer/ Research Officer	-	-	By promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Divisional Officers/ Assistant Engineers/ Junior Engineers/ Assistant Research Officers, possessing Degree in B.E/ B.Sc Engineering (Civil/Mechanical/Electrical) from a recognized University, with at least 5 (five) years service as such, and have passed the Professional Examination as prescribed in B&R Code.
4.	Sub-Divisional Officer/ Assistant Engineer/ Junior Engineer/ Assistant Research Officer	Degree in BE/B.Sc. Engineering (Civil/ Mechanical/ Electrical) from a recognized University.	21 - 32 Years	a) "Sixty five percent (65%) by initial recruitment; b) Twenty percent (20%) by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Engineers who hold a Diploma of (Civil, Mechanical or Electrical) and have passed Departmental Professional Examination, with 10 (ten) years' service as such; c) Eight percent (8%) by promotion, on the basis of seniority-cum-fitness from amongst the Sub-Engineers who possessed degree of B.E/B.Sc Engineering (Civil, Mechanical or Electrical) at the time of their joining service and have passed Departmental Professional Examination with 05 (five) years' service as such; d) Three and half percent (3.5%) by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Engineers who acquired Degree of B.E or B.Sc Engineering (Civil, Mechanical or Electrical) during service and have passed Departmental Professional Examination with 05 (five) years' service as such; and e) Three and half percent (3.5%) by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Engineers having Degree of B.Tech (Hons) and have passed Departmental Professional Examination with 05 (five) years' service as such"

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Sl. No.	Nomenclature of Post	Minimum Qualification Required for Appointment/Promotion	Age Limit	Method of Recruitment
1	2	3	4	5
5.	Sub-Engineer	Diploma of Associate Engineering (Civil/Electrical/Mechanical) from a recognized Board of Technical Education	18 – 30 Years	<p>f) <b>Note:</b> The seniority in all cases shall be determined from the date of initial appointment.</p> <p>a. Seventy Five percent (75) by initial recruitment.</p> <p>b. Five percent (5%) by promotion, on the basis of seniority-cum-fitness from amongst the Work Superintendents/ Work Supervisors/ Surveyors, with five years service as such, having three years Diploma of Associate Engineering in Civil Technology from a recognized Board.</p> <p><u>Note-1: For the purpose of promotion, joint seniority list of Works Superintendents, Supervisors and Surveyors with reference to their regular appointment to the post shall be maintained or in case the two dates are similar, the official in BS-11 shall rank senior</u></p> <p>c. Five percent (5%) by promotion, on the basis of seniority-cum-fitness, from amongst the Road Inspectors, with seven years service as such, having three years Diploma of Associate Engineering in Civil Technology, from a recognized Board;</p> <p>d. Five percent (5%) by promotion, on the basis of seniority-cum-fitness, from amongst the Work Superintendents/ Work Supervisors/ Road Inspectors, with seven years service as such, having three years Diploma of Electrical/ Mechanical Technology from a recognized Board;</p> <p><u>Note-2: For the purpose of promotion, joint seniority list of Works Superintendents/ Work Supervisors &amp; Road Inspectors, with reference to their regular appointment to the post shall be maintained. In case the two dates are similar, the official in BS-11 shall rank senior.</u></p> <p>e. Two point five percent (2.5%) By Transfer from amongst the Draftsman with seven years service as such, having Diploma in Civil/Electrical/Mechanical Technology, from a recognized Board.</p> <p><b>f. Two point five percent (2.5%) by promotion, on the basis of seniority-cum-fitness, from amongst the Tracers with ten years service as such, having Diploma in Civil/Electrical/Mechanical Technology from recognized Board; and</b></p> <p>g. Five percent (5%) by promotion, from amongst the Work Superintendents/ Work Supervisors/ Road Inspectors, who have passed "B" Grade Departmental Examination with seven years service as such;</p> <p><u>Note-3: For the purpose of promotion, joint seniority list of Works Superintendents/ Work Supervisors &amp; Road Inspectors, with reference to their regular</u></p>

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*Handwritten signature or initials.*

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Sl. No.	Nomenclature of Post	Minimum Qualification Required for Appointment/ Promotion	Age Limit	Method of Recruitment
1	2	3	4	5
				<p>appointment to the post shall be maintained. In case the two dates are similar, the official in BS-11 shall rank senior.</p> <p>Note-4: (i) If no suitable candidate is available for transfer, as prescribed in sub clause (e) then the vacancy shall be filled in by way as prescribed in sub-clause (b); and</p> <p>(ii) If no suitable candidate is available for promotion, as prescribed in sub clause (f), then the vacancy shall be filled in by way as prescribed in sub clause (c);</p>
6.	Work Superintendent/ Work Supervisor	<p>a. Secondary School Certificate from a recognized Board; and</p> <p>b. Diploma of Associate Engineering in Civil Technology from the Board of Technical Education</p>	18 – 30 Years	By Initial Recruitment.
7.	Surveyor	<p>a. Secondary School Certificate from a recognized Board; and</p> <p>b. Diploma of Associate Engineering in Civil Technology from the Board of Technical Education</p>	18 – 30 Years	By Initial Recruitment
8.	Road Inspector	Diploma of Associate Engineering in Civil Technology from a recognized Board of Technical Education	20 – 30 Years	<p>a) Fifty percent (50%) by Initial Recruitment AND</p> <p>b) Fifty percent (50%) by promotion, on basis of seniority-cum-fitness, from amongst Work Munshies with at least ten years service as such</p>
9.	Work Munshi	Secondary School Certificate from a recognized Board.	20 – 30 Years	By Initial Recruitment
10.	Principal Consulting Architect	-	-	By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Architects with at least 12 (twelve) years in BS-17 and above.
11.	Senior Architect	-	-	By promotion, on the basis of seniority-cum-fitness, from amongst the Junior

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the August 05, 2021

**NOTIFICATION:**

No. SOE/C&W/4-5/72 On the recommendations of Provincial Selection Board (PSB), the Competent Authority has been pleased to promote the following Assistant Engineers/SDOs (BS-17) of C&W Department to the rank of Executive Engineers (BS-18) on regular basis with immediate effect.

1	Waqas Arshad Tanoli	2	Babar Majeed
3	Safeer Gul	4	Rafi Ullah
5	Fareeha Malahat	6	Muhammad Naeem
7	Inayat-ur-Rehman	8	Fazl Waheeb
9	Muhammad Bilal Afzal	10	Syed Hakim Shah
11	Muhammad Riaz	12	Aamir Javaid
13	Mehdi Raza	14	Muhammad Afaq Khalid
15	Muhammad Zahid	16	Abid Ali
17	Khalid Mehmood	18	Muhammad Umar Anwar
19	Mohsin Zafar	20	Sifat Ullah Khan
21	Sayed Nasir Jehan	22	Farman Ullah
23	Azmat Ullah	24	Zia-ul-Islam
25	Muhammad Usman Yousaf Shurwari	26	Shahab-ud-Din
27	Ahmad Zeb Khan Afridi	28	Abdul Fahir Jamid
29	Muhammad Nissar Khan	30	Imad Ahmad
31	Maqbool-e-Azam	32	Javed Iqbal Khan
33	Shah Nawaz Khan	34	Farman Ullah
35	Abid Khan	36	Nouman Bashir
37	Haseeb-ur-Rehman	38	Inham-ur-Haq
39	Yasir Mehmood	40	Javeria Naseem Gotra
41	Javeria Tamur	42	Rabia Hanan

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2. The above officers shall remain on probation for a period of one year in terms of Rule-15 of (Appointment, Promotion & Transfer) Rules, 1989.

3. Consequent upon their promotion, the Competent Authority is further pleased to order the transfer/posting of the following officers of C&W Department, with immediate effect, in the public interest:

Sr. No	Name of Officer & Designation	From	To
1	Waqas Arshad Tanoli (BS-18)	Deputy Director (Constn-V) Provincial Directorate of Provincial Expressway in his own pay & scale	Design Engineer O/O CE (North) C&W Swat stationed at Saidu Sharif for actualization of his promotion as (BS-18) on regular basis and reposted as Deputy Director (Constn-V) Provincial Directorate of Provincial Expressway
2	Babar Majeed (BS-18)	Deputy Director (Constn-III) Provincial Directorate of Provincial Expressway in his own pay & scale	Senior Engineer (Survey/RMU) O/O CE (CDO) C&W Peshawar for actualization of his promotion as (BS-18) on regular basis and reposted as Deputy Director (Constn-III) Provincial Directorate of Provincial Expressway
3	Safeer Gul (BS-18)	Executive Engineer (OPS) C&W Division Shangla	Executive Engineer C&W Division Shangla
4	Rafi Ullah (BS-18)	Executive Engineer (OPS) C&W Division Malakand	Executive Engineer C&W Division Malakand
5	Fareeha Malahat (BS-18)	Deputy Director (Constn-I) Provincial Directorate of Provincial Expressway in her own pay & scale	Design Engineer O/O CE (CDO) C&W Peshawar for actualization of her promotion as (BS-18) on regular basis and reposted as Deputy Director (Constn-I) Provincial Directorate of Provincial Expressway
		Executive Engineer (OPS) C&W Division Battagram	Executive Engineer C&W Division Battagram

name

Muhammad Naeem

Signature

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7	Majid-ur-Rehman (BS-18)	Design Engineer (OPS) O/O CE (North) C&W Swat stationed at Saidu Sharif	Design Engineer O/O CE (North) Swat stationed at Saidu Sharif
8	Fazl Wahab (BS-18)	Deputy Director-I (Technical) C&W Department, Peshawar in his own pay & scale	Design Engineer O/O CE (South) Peshawar for actualization of promotion as (BS-18) on regular basis and reposted as Deputy Director-I (Technical) C&W Department, Peshawar
9	Muhammad Bilal Afzal (BS-18)	Executive Engineer (OPS) Highway Division Mansehra	Executive Engineer Highway Division Mansehra
10	Syed Hakim Shah (BS-18)	Executive Engineer (OPS) Highway Division Abbottabad	Executive Engineer Highway Division Abbottabad
11	Muhammad Riaz (BS-18)	Executive Engineer (OPS) Highway Division No I Peshawar	Executive Engineer Highway Division No I Peshawar
12	Aamir Javid (BS-18)	Executive Engineer (OPS) Highway Division Bajaur	Executive Engineer Highway Division Bajaur
13	Mehd. Raza (BS-18)	Executive Engineer (OPS) Building Division Kohat	Executive Engineer Building Division Kohat
14	Muhammad Afaz Khasid (BS-18)	Deputy Director (Constn-IV) Provincial Directorate of Provincial Expressway in his own pay & scale	Design Engineer O/O CE (South) Peshawar for actualization of promotion as (BS-18) on regular basis and reposted as Deputy Director (Constn-IV) Provincial Directorate of Provincial Expressway
15	Muhammad Zahid (BS-18)	Awaiting posting	Design Engineer O/O CE (CDO) Peshawar
16	Abd Ah (BS-18)	Design Engineer (OPS) O/O CE (Mega Projects) Peshawar	Design Engineer O/O CE (Mega Projects) Peshawar
17	Khalid Mahmood (BS-18)	Executive Engineer (OPS) Highway Division North Waziristan	Executive Engineer Highway Division North Waziristan
18	Muhammad Umar Anwar (BS-18)	Executive Engineer (OPS) Building Division Mansehra	Executive Engineer Building Division Mansehra
19	Mohsin Zafar (BS-18)	Executive Engineer (OPS) C&W Division Chitral Lower	Executive Engineer C&W Division Chitral Lower
20	Sifat Ullah Khan (BS-18)	Executive Engineer (OPS) Highway Division Mohmand	Executive Engineer Highway Division Mohmand
21	Sayid Nasir Jehan (BS-18)	Executive Engineer (OPS) Building Division Buner	Executive Engineer Building Division Buner
22	Farmen Ullah (BS-18)	Executive Engineer (OPS) Highway Division Swat	Executive Engineer Highway Division Swat
23	Azmat Ullah (BS-18)	Procurement Expert KITE C&W Peshawar	Design Engineer O/O CE (South) C&W Peshawar
24	Zia-ul-Islam (BS-18)	Executive Engineer (OPS) C&W Division Kurram Lower	Executive Engineer C&W Division Kurram Lower
25	Muhammad Usman Yousaf Shirwari (BS-18)	Executive Engineer (OPS) Highway Division No II Peshawar	Executive Engineer Highway Division No II Peshawar
26	Shahab-ud-Din (BS-18)	Deputy Director-II (Technical) C&W Department, Peshawar in his own pay & scale	Design Engineer O/O CE (South) C&W Peshawar for actualization of his promotion as (BS-18) on regular basis and reposted as Deputy Director-I (Technical) C&W Department, Peshawar
27	Ahmad Zehra (BS-18)	Deputy Director (OPS) PIU-PRIP C&W Peshawar	Design Engineer O/O CE (Foreign Aid) Peshawar for actualization of his promotion as (BS-18) on regular basis and reposted as Deputy Director PIU-PRIP C&W Peshawar
28	Abdul Tahir Jamil (BS-18)	Executive Engineer (OPS) Highway Division Buner	Executive Engineer Highway Division Buner
29	Muhammad Nisar Khan (BS-18)	Executive Engineer (OPS) Building Division North Waziristan	Executive Engineer Building Division North Waziristan
30		Executive Engineer (OPS) Building Division No II Peshawar	Executive Engineer Building Division No II Peshawar

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31	Maqbool-e-Azam (BS-18)	Executive Engineer (OPS) Highway Division Dir Lower	Executive Engineer Highway Division Dir Lower
32	Javed Iqbal Khan (BS-18)	Research Officer (OPS) RR&MT Lab, Peshawar	Research Officer RR&MT Lab, Peshawar
33	Shah Nawaz Khan (BS-18)	Executive Engineer (OPS) C&W Division Chitral Upper	Executive Engineer C&W Division Chitral Upper
34	Farman Ullah (BS-18)	Executive Engineer (OPS) Highway Division Orakzai	Executive Engineer Highway Division Orakzai
35	Abid Khan (BS-18)	Executive Engineer (OPS) Mega Projects Mardan	Executive Engineer Mega Projects Mardan
36	Nouman Bashir (BS-18)	Executive Engineer (OPS) Building Division Mohmand	Executive Engineer Building Division Mohmand
37	Haseeb-ur-Rehman (BS-18)	Executive Engineer (OPS) Building Division No.1, Peshawar	Executive Engineer Building Division No.1, Peshawar
38	Inham-ul-Haq (BS-18)	Executive Engineer (OPS) Highway Division Mardan	Executive Engineer Highway Division Mardan
39	Yasir Mehmood (BS-18)	Assistant Research Officer RR&MT Lab Mansehra	Design Engineer O/O CE (East) C&W Abbottabad
40	Javaria Naseem Goira (BS-18)	Deputy Director (Env. Social. Gender Specific issues & Resettlement) (OPS) PIU-PRIP C&W Peshawar.	Design Engineer O/O CE (Mega Projects) Peshawar for actualization of her promotion as (BS-18) on regular basis and reposted as Deputy Director (Env. Social. Gender Specific issues & Resettlement) PIU-PRIP C&W Peshawar
41	Javeria Taimur (BS-18)	Deputy Director (OPS) PaRRSAUSAID Directorate Swat stationed at Peshawar	Executive Engineer Maintenance-III Peshawar for actualization of her promotion as (BS-18) on regular basis and reposted as Deputy Director PaRRSAUSAID Directorate Swat stationed at Peshawar
42	Rabia Hanan (BS-18)	Executive Engineer (OPS) Maintenance-II Peshawar	Executive Engineer Maintenance-II Peshawar

SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

End of even number and date

Copy is forwarded to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. All Chief Engineers in C&W Department
3. Managing Director PKHA Peshawar
4. All Superintending Engineers in C&W Department
5. Project Director PIU-PRIP C&W Peshawar
6. Project Director KITE C&W Peshawar
7. Project Director Provincial Directorate of Provincial Expressway Peshawar
8. Project Director PaRRSAUSAID Directorate Swat stationed at Peshawar
9. All Executive Engineers C&W Divisions concerned
10. All Executive Engineers Building Divisions concerned
11. All Executive Engineers Highway Divisions concerned
12. All District Accounts Officers concerned
13. Accounts Officers Tribal Districts concerned
14. PS to Special Assistant to Chief Minister Khyber Pakhtunkhwa for C&W Department
15. PS to Secretary C&W Department, Peshawar
16. PA to Additional Secretary C&W Department, Peshawar
17. PA to Additional Secretary (Tech) C&W Department, Peshawar
18. PA to Deputy Secretary (Admn/Tech) C&W Department, Peshawar
19. PA to Special Assistant to
20. Officers concerned
21. Office order File
22. The Manager Govt Printing Press, Khyber Pakhtunkhwa, Peshawar

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ATTESTED

*Zahoor Shah*  
05.8.2021  
(ZAHOOR SHAH)  
SECTION OFFICER (Estb)



IN THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petitions 2707/2021(NOTICE CASES)

Shaukat Ullah Shah & others VS Govt of KP & others

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Notice to:

(150732) - R no 4 Govt of kPk thr Secretry Communication & Workds Deptt Civil Secretariat Peshawar. /

The above-mentioned writ petition has been presented in this court by the Petitioner through Council/Advocate, under Article 199 of the Consitution of Islamic Republic of Pakistan, 1973.

The same was placed before the court for preliminary hearing, and it has now been admitted to full hearing on more. It has been ordered by the Court to send you notice of the same.

You are, therefore, informed through this notice that the said Writ Petition is now fixed for full hearing before a Single Bench / Division Bench on 3-8-2021.

However, it may be noted that you are required to file your statement / counter affidavit / any other documents upon which you rely, in this Court at least 2 days before the date fixed for hearing.

Please note that if you do not appear on the date so fixed, the Petition shall be heard and decided in your absence.

Given under my hand and the seal of the Court, this day on 02-August-2021.

BY ORDER OF THE JUDGES

For Additional Registrar

Special Instruction:

  
**ATTESTED**



353

Writ Br <phc.writbranch@gmail.com>

WP No. 2707/2021 Respondent No. 4 to appear in person on 3/8/2021

Writ Br <phc.writbranch@gmail.com>

Mon, Aug 2, 2021 at 9:45 AM

advocategeneralkp@gmail.com, secretary@cwd.gkp.pk, a.secretary@cwd.gkp.pk, info@cwd.gkp.pk

السلام عليكم

## COURT MATTER

Case file alongwith Order of this Honourable Court, is transmitted for information & necessary compliance at the earliest.

Please acknowledge receipt of this Email.

SECTION  
SECRETARY

2 attachments

WP2707-J-P--2021 30-7.pdf  
31K

WP2707-2021 shaukat ullah shah vs govt cf-.pdf  
4279K

  
**ATTESTED**

354

Writ Br <phc.writbranch@gmail.com>

WP No. 2707-P/2021 Respondent No.4 to appear in person on 30-07-2021

Writ Br <phc.writbranch@gmail.com>

Thu, Jul 29, 2021 at 3:04 PM

advocategeneralkp@gmail.com, secretary@cwd.gkp.pk, a.secretary@cwd.gkp.pk, info@cwd.gkp.pk

السلام عليكم

## COURT MATTER

*Please file alongwith Order of this Honourable Court, is transmitted for information & necessary compliance at the earliest.*

*please acknowledge receipt of this Email.*

PROSECUTION

COURT, PESHAWAR

2 attachments

WP2707 P 2021 15-7.pdf  
23K

wp2707.21.0807 J.pdf  
25K

  
**ATTESTED**

**IN THE PESHAWAR HIGH COURT PESHAWAR**

355

Inst # 25936

Early Hearing No. -P/2021

In in WP 2707/21

**Shaukat Ullah Shah & others V /s Govt of KP & others**

Presented by Mubashir Manzoor  
on behalf of appellant/petitioner.  
Entered in the relevant register.

Put up along with main case .....

Dated 29 JUL 2021

  
Reader

In the instant case early hearing application has been moved for the reasons mentioned therein. the case is in motion/notice.

If approved we may accelerate the case from 10-11-21 10:10 (SB/DB)  
cm. 1476-1/21 8-9-21 06 21

Dated 29 JUL 2021

Countersigned

Dated 29 JUL 2021

  
Deputy Registrar

  
**ATTESTED**

**BEFORE PESHAWAR HIGH COURT, PESHAWAR**

356

C.M No \_\_\_\_/2021

W. P No. 2707-P/2021

Shaukat Ullah Shah & others

**Vs**

Government of Khyber Pakhtunkhwa & others

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Early Hearing Application		1-3
2.	Affidavit		4
3.	Copy of Letter dated 21-06-2021	<b>A</b>	5
4.	Copy of letter dated 09-07-2021	<b>B</b>	6
5.	Copy of Notification dated 01-07-2021	<b>C</b>	7
	Copy of Notification dated 16-07-2021		8
6.	Copy of letter for Provincial Selection Board Meeting dated 28-07-2021	<b>D</b>	9-11

Petitioner

Through

  
**Mubashir Manzoor**  
Advocate, High Court

  
**ATTESTED**

  
Deputy Registrar

29 JUL 2021

BEFORE THE HONORABLE PESHAWAR HIGH COURT, PESHAWAR

C.M :- \_\_\_\_/2021

In

Writ Petition No:-2707-P/2021

357

1 **Shaukat Ullah Shah**  
Assistant Engineer  
Communication & Works Department  
Government of Khyber Pakhtunkhwa

2. **Muhammad Ghazanfar Ullah**  
Sub Divisional Officer  
Communication & Works Department  
Government of Khyber Pakhtunkhwa  
VERSUS

1 **Govt. of Khyber Pakhtunkhwa**  
Through Chief Secretary  
Civil Secretariat, Peshawar

2 **Govt. of Khyber Pakhtunkhwa**  
Through Secretary Establishment & Administrative Department  
Civil Secretariat, Peshawar

3 **Govt. of Khyber Pakhtunkhwa**  
Through Secretary Law & Parliamentary Affairs Department  
Civil Secretariat, Peshawar

4 **Govt. of Khyber Pakhtunkhwa**  
Through Secretary Communication & Works Department  
Civil Secretariat, Peshawar

Application for early hearing of W. P.No.2707-P/2021

**ATTESTED**

Respectfully Sheweth:

1. That the applicant has filed the captioned writ petition and the comments were called from the respondents on 15-07-2021.

FILED TODAY  
Deputy Registrar

29 JUL 2021

2. That the said writ petition pertains to the direction to Respondent No 4 to conduct Standing Service Rules Committee meeting at the earliest.



3. That the said writ petition was fixed for 15-07-2021 and after hearing the petitioner's counsel at length comments were called from the respondents within fortnight and now the instant petition is fixed for hearing on 8-09-2021.
4. That the respondent No 4 vide letter No.SOE/C&WD/4-5/72 dated 21-06-2021 forward working paper for promotion of B.Tech(Hons) Assistant Engineers /SDOs(BS-17 to the rank of Deputy Director (BS-18) technical Communication & Works Department.

**(Copy of Letter dated 21-06-2021 is Annexed as Annexure "A")**

5. That subsequently after filling of instant Writ Petition Respondent No 4 vide letter No.SOE/C&WD/4-5/72 dated 9-07-2021 cancel/withdrawn the department letter of even number dated 21-06-2021.

**(Copy of Letter Dated 09-07-2021 is annexed as Annexure "B")**

6. That the malafide on part of Respondent No 4 reflects from the fact that Respondent No 4 vide Notification dated 01-07-2021 order the posting/transfer of services of petitioner No 1 at the disposal of Establishment Department for further posting in Anti-Corruption Establishment, Government of Khyber Pakhtunkhawa, Peshawar and the same was cancel/withdrawn vide Notification No.SOE/C&WD/3-1/2021 .

FILED TODAY  
Deputy Registrar  
29 JUL 2021

Copy of letter dated 01-07-2021 & 16-07-2021 is  
annexed as Annexure "C")

  
**ATTESTED**

7. That the Respondent No.4 is deliberately not convening Standing Service Rules committee just to deprive petitioner from Promotion to BPS-18.
8. That Respondent No .2 vide letter No.SO(PSB)ED/1-1/2021(9) dated 28-07-2021 has called meeting of Provincial Selection Board on 30-07-2021 & 31-07-2021 for promotion of Assistant Engineers/SDOs B-17 to the post of Executive Engineer BS.18 on 42 number of posts.

(Copy of letter dated 28-07-2021 for Meeting of  
PSB is annexed as Annexure "D")

9. That the writ petition is becoming fruitless by the passage of each day.
10. That if the writ petition is not disposed of on urgent basis, it would become infructuous and the applicant would suffer irreparable loss and his rights would be severely affected.

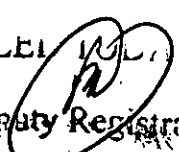
It is therefore requested that this application may kindly be considered and the Writ Petition No.2707-P / 2021 may graciously be fixed for an early hearing.

  
**ATTESTED**

Applicant/Petitioners

through 

**Mubashir Manzoor  
Advocate High Court**

FILED   
Deputy Registrar  
29 JUL 2021



360

4



BEFORE THE HONORABLE PESHAWAR HIGH COURT, PESHAWAR.

In  
W.P No. \_\_\_/2021

Shoukat Ullah Shah & Others

Versus

Government of Khyber Pakhtunkhawa

AFFIDAVIT

I Shoukat Ullah Shah S/o Syed Yaqoob , Assistant Engineer, Civil & Works Department , Government of Khyber Pakhtunkhawa do hereby solemnly affirm and declare on oath that the contents of the writ petition are true and correct and nothing has been concealed from this Honorable Court.

*[Signature]*  
Deponent

11201-0376771-9  
0333-9125822

Identified By

Mubashir Manzoor  
Advocate High Court  
Peshawar

*[Signature]*  
**ATTESTED**

No. 31884	
Certified that on	29 July 21
affirmation by	Shoukat Ullah
day of July	Peshawar
at	Mubashir Manzoor
to	
who is personally	

*[Signature]* 29/7/2021

FILED  
Deputy Registrar  
28 JUL 2021

361



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-5/72  
Dated Peshawar, the June , 2021  
11

The Section Officer (PSB)  
Establishment & Admn Department  
Peshawar

Subject: PROMOTION OF B-Tech (Hons) ASSISTANT ENGINEERS / SDOs  
(BS-17) TO THE RANK OF DEPUTY DIRECTOR BS-18 (TECHNICAL)  
C&W DEPARTMENT ON REGULAR BASIS

I am directed to refer to the subject noted above and to forward herewith working paper (07 sets) along-with related documents duly completed in all respect for promotion of B-Tech (Hons) Assistant Engineers/SDOs (BS-17) to the rank of Deputy Director (BS-18) Technical on regular basis for placing before Provincial Selection Board (PSB) for consideration, please.

*Zahoor Shah*  
17-6-2021  
(ZAHOOR SHAH)  
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to the:

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

*[Signature]*  
**ATTESTED**

*ATTESTED*  
SECTION OFFICER (Estb)

362

3



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT  
No. SOE/C&WD/4-5/72  
Dated Peshawar, the July, 09, 2021

To

The Section Officer (PSB),  
Establishment Department,  
Peshawar.

Subject:- PROMOTION OF B-TECH (HONS) ASSISTANT ENGINEERS/SDOS  
(BS-17) TO THE RANK OF DEPUTY DIRECTOR BS-18 (TECHNICAL)  
C&W DEPARTMENT ON REGULAR BASIS.

I am directed to refer to the subject noted above and to inform that  
this Department's letter of even number dated. 21.06.2021 may be considered as  
cancel/withdrawn.

2. I am further directed to request that the case may be returned  
(in original) along with relevant documents, please.

*Zahoor Shah*

09.7.2021

(ZAHOOR SHAH)

Section Officer (Estab)

Copy for information to:-

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

*[Signature]*  
**ATTESTED**

*[Signature]*  
Section Officer (Estab)

*ATTESTED*

SECTION OFFICER (Estb)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the July 01, 2021

**NOTIFICATION:**

**No. SOE/C&WD/3-1/2021:** The Competent Authority is pleased to order the following posting/transfer amongst the officers of C&W Department, with immediate effect, in the best public interest.

Sr. No.	Name & Designation	From	To	Remarks
1	Engr. Shanoq Pervez AE (BS-17)	SDO O/O XEN Mega Project-I Peshawar	Services placed at the disposal of Higher Education Department for further posting as Deputy Director UET Swat on deputation basis	—
2	Engr. Obaidullah AE (BS-17)	Assistant Director PKHA Peshawar	XEN (OPS) Mega Projects Swat, relieving Engr. Shahab Khan from additional charge.	Against vacant post
3.	Mr. Shaukat Ullah Shah AE (BS-17)	Awaiting posting	Services placed at the disposal of Establishment Department for further posting in Anti Corruption Establishment Khyber Pakhtunkhwa Peshawar	—

SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

Ends of even number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar
2. Secretary to Govt of Khyber Pakhtunkhwa Higher Education Department, Peshawar
3. Chief Engineer (North) C&W Swat stationed at Saidu Sharif
4. Chief Engineer (Mega Projects) Peshawar
5. Managing Director PKHA Peshawar
6. Superintending Engineer Mega Projects Peshawar
7. Executive Engineer Mega Projects-I, Peshawar
8. Executive Engineer Building Division Swat
9. Executive Engineer Mega Projects Swat
10. Chief Planning Officer Higher Education Department, Peshawar with reference to their letter No.CPO/DCPO/HE/U-57/UET Swat dated 01.06.2021
11. Section Officer (E-I) Establishment Department Peshawar with reference to their letter No.SO(E-I)E&AD/9-88/2021 (V) dated 02.06.2021
12. District Accounts Officer Swat
13. PS to Special Assistant to Chief Minister Khyber Pakhtunkhwa for C&W Department
14. PS to Secretary Establishment Department, Peshawar
15. PS to Secretary, C&W Department Peshawar
16. PA to Additional Secretary C&W Department Peshawar
17. PA to Additional Secretary (Tech) C&W Department Peshawar
18. PA to Deputy Secretary (Admn), C&W Department Peshawar
19. Officers concerned
20. Office order File/Personal File

ATTESTED

(ZAHOOR SHAH)  
SECTION OFFICER (Estb)

364



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the July 16, 2021

**NOTIFICATION:**

No.SOE/C&WD/3-1/2021: The Competent Authority is pleased to cancel/ withdraw the placing of services of Mr. Shaukat Ullah Shah Assistant Engineer / SDO (BS-17) awaiting posting, at the disposal of Establishment Department for further posting in Anti Corruption Establishment Khyber Pakhtunkhwa Peshawar (appearing at Sl.No.3), issued vide this Department Notification of even number dated 01.07.2021, in the best public interest.

SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar
2. Secretary to Govt of Khyber Pakhtunkhwa Higher Education Department, Peshawar
3. Chief Engineer (North) C&W Swat stationed at Saidu Sharif
4. Chief Engineer (Mega Projects) Peshawar
5. Managing Director PKHA Peshawar
6. Superintending Engineer Mega Projects Peshawar
7. Executive Engineer Mega Projects-I, Peshawar.
8. Executive Engineer Building Division Swat
9. Executive Engineer Mega Projects Swat
10. District Accounts Officer Swat
11. PS to Special Assistant to Chief Minister Khyber Pakhtunkhwa for C&W Department
12. PS to Secretary Establishment Department, Peshawar
13. PS to Secretary, C&W Department Peshawar
14. PA to Additional Secretary C&W Department Peshawar
15. PA to Additional Secretary (Tech) C&W Department Peshawar
16. PA to Deputy Secretary (Admn), C&W Department Peshawar
17. Officer concerned
18. Office order File/Personal File

ATTESTED

Zahoor  
16.7.2021  
(ZAHOOR SHAH)  
SECTION OFFICER (Estb)

365

(9)



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT**

No. SO(PSEB)/ 1-1/2021/(9)  
Dated Peshawar, the 28.07.2021

To

1. The Additional Chief Secretary,  
Government of Khyber Pakhtunkhwa,  
Planning & Development Department.
2. The Senior Member, Board of Revenue,  
Khyber Pakhtunkhwa.

SUBJECT: - **MEETING OF THE PROVINCIAL SELECTION BOARD.**

Dear Sir,

I am directed to refer to the subject and to say that meeting of Provincial Selection Board will be held on **30.07.2021 at 01:30 PM and 31.07.2021 at 10:30 AM** under the chairmanship of Chief Secretary, Khyber Pakhtunkhwa in the Conference Room of Chief Secretary, Khyber Pakhtunkhwa. Agenda of the meeting alongwith working papers are enclosed.

2. You are requested to kindly make it convenient to attend the meeting as per agenda of the meeting attached.

Yours faithfully,

*[Signature]* 28.7.2021  
SECTION OFFICER (PSB)

**Encl. As above**

**Endst. of even No. & date.**

A copy is forwarded to: -

1. The P.S to Chief Secretary, Khyber Pakhtunkhwa.
2. The P.S to Secretary Establishment Department.
3. The P.S to Special Secretary (Establishment), Establishment department.
4. The P.S to Special Secretary (Reg.) Establishment Department.
5. The P.Ss to Additional Secretaries (Reg.-I&II) Establishment Department.

*[Signature]*  
SECTION OFFICER (PSB)

*[Signature]*  
**ATTESTED**

**P.T.O**

*[Signature]*  
**ATTESTED**

**Endst. of even No. & date.**

A copy is forwarded to: -

1. The Chairman, Provincial Inspection Team, Khyber Pakhtunkhwa,
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Planning & Development Department.
4. The Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.
5. The Secretary to Govt. of Khyber Pakhtunkhwa, Zakat & Usher Department.
6. The Secretary to Govt. of Khyber Pakhtunkhwa, Sports, Culture & Tourism Department.
7. The Secretary to Govt. of Khyber Pakhtunkhwa, Industries, Commerce & Technical Education Department.
8. The Secretary to Govt. of Khyber Pakhtunkhwa, Excise & Taxation Department.
9. The Secretary to Govt. of Khyber Pakhtunkhwa, Labour Department.
10. The Secretary to Govt. of Khyber Pakhtunkhwa, Elementary & Secondary Education Department.
11. The Secretary to Govt. of Khyber Pakhtunkhwa, Higher Education Department.
12. The Secretary to Govt. of Khyber Pakhtunkhwa, Population Welfare Department.
13. The Secretary to Govt. of Khyber Pakhtunkhwa, Public Health Engineering Department.
14. The Secretary to Govt. of Khyber Pakhtunkhwa, Irrigation Department.
15. The Secretary to Govt. of Khyber Pakhtunkhwa, C&W Department.
16. The Secretary to Govt. of Khyber Pakhtunkhwa, Home & TAs Department.
17. The Secretary to Govt. of Khyber Pakhtunkhwa, Environment, Forestry & Wildlife Department.
18. The Secretary to Govt. of Khyber Pakhtunkhwa, Agriculture, Livestock, Dairy Development & Cooperative Department.
19. The Secretary to Govt. of Khyber Pakhtunkhwa, Health Department.
20. The Secretary to Govt. of Khyber Pakhtunkhwa, Law & Parliamentary Affairs department with the request to attend the meeting alongwith Advocate General, Khyber Pakhtunkhwa for legal opinion in litigation cases.

They are requested to kindly attend meeting of the PSB to be held on 30.07.2021 at 01:30 PM and 31.07.2021 at 10:30 AM in the Conference Room of Chief Secretary, Khyber Pakhtunkhwa. They are further requested to bring synopsis of PERs, original PER files and other service record of the officers concerned for perusal of the Board.

SECTION OFFICER (PSB)

**Endst of even No. & date.**

A copy is forwarded to: -

1. The Section Officer (E-I) / (E-II) / (Secret), Establishment Department.
2. PAs to Deputy Secretaries (Reg.-I, II & III), Establishment Department.

SECTION OFFICER (PSB)

ATTESTED

ATTESTED

367

AGENDA OF THE PSB MEETING TO BE HELD ON 31.07.2021 AT 10:30 AM				
ITEM#	DESCRIPTION OF CASE	PANEL	POSTS	DEPARTMENT
1.	Promotion of PCS (EG) officers from BS-20 to BS-21	5	3	Establishment
2.	Promotion of PCS (EG) / PCS (SG) / PMS officers from BS-19 to BS-20	22	17	Establishment
3.	Promotion of PMS officers from BS-18 to BS-19	44	34	Establishment
4.	Promotion of PMS officers from BS-17 to BS-18	60	38	Establishment
5.	Promotion of Superintendent BS-17 to PMS BS-17	66	24	Establishment
6.	Promotion of Personal Assistant BS-16 to PMS BS-17	32	10	Establishment
7.	Promotion of Tehsildar BS-16 to PMS BS-17	42	19	Establishment
8.	Promotion of Senior Private Secretary BS-18 to Additional Private Secretary BS-19	3	2	Establishment
9.	Promotion of Private Secretary BS-17 to Senior Private Secretary BS-18	10	7	Establishment
10.	Promotion of Deputy Director IT BS-18 to the post of Director IT BS-19	3	1	Establishment
11.	Promotion of SDEO / Assistant Director BS-17 (Management Cadre) (Male) to the post of DDEO / Deputy Director BS-18	9	12	E&SE
12.	Promotion of SDEO / Assistant Director BS-17 to the post of DDEO / Deputy Director (Female) BS-18	1	1	E&SE
13.	Proforma promotion of Mst. Niaz Parwar to BS-19 in pursuance of Service Tribunal order (Court Case)	1	1	E&SE
14.	Proforma promotion of Mr. Mirza Ali Khan, Ex Head Master BS-17 to BS-18 (Court Case)	1	1	E&SE
15.	Proforma promotion in r/o Muhammad Niaz, Ex Principal BS-18 in pursuance of Peshawar High Court judgment (Court Case)	1	1	E&SE
16.	Promotion of Superintending Engineer BS-19 to the post of Chief Engineer BS-20	14	6	C&W
17.	Promotion of Executive Engineers BS-18 to the post of Superintending Engineers BS-19	38	19	C&W
18.	Promotion of Assistant Engineer / SDO BS-17 to the post of Executive Engineer BS-18	84	42	C&W
19.	Proforma promotion in respect of Engr. Nazir Ahmad, Assistant Engineer BS-17 (Retired) to the post of Executive Engineer BS-18 and Superintending Engineer BS-19 with all back benefits in light of Khyber Pakhtunkhwa Service Tribunal judgment (Court Case)	1	1	C&W
20.	Promotion of Director Research & Analysis BS-19 to the Post of Director General Research Analysis BS-20 (Dr. Ayaz Khan, Court Case)	1	1	Home
21.	Promotion of Superintendent Jail (BPS-19) to the post of Inspector General of Prison (BPS-20).	1	1	Home
22.	Promotion of Superintendent District Jail BS-18 to the post of DIG Prisons / Superintendent Central Prison BS-19	3	9	Home
23.	Promotion of Deputy Superintendent Jail (BPS-17) to the post of Superintendent, District Jail (BPS-18).	15	10	Home
24.	Promotion of Assistant Director (BPS-17) to the post of Deputy Director (BPS-18)	3	2	Home
25.	Promotion of Senior Probation Officer / Parole Officer BS-17 to the post of Deputy Director Reclamation & Probation BS-18	4	3	Home
26.	Proforma Promotion of Ehtaz Ahmad Ex-Superintendent Jail BS-18 to BS-19 (Court Case)	1	1	Home
27.	Proforma promotion of Mr. Amir-ud-din to the post of Deputy Director Reclamation & Probation BS-18 in pursuance of Peshawar High Court judgment dated 12.02.2020 (Court Case)	1	1	Home
28.	Promotion of BS-19 officers of Agriculture Extension Wing to the post of Director General / Principal Agriculture Training Institute Peshawar BS-20	6	2	Agriculture
29.	Promotion of officers of Agriculture Research Wing from BS-18 to BS-19	36	18	Agriculture

ATTESTED

ATTESTED



IN THE PESHAWAR HIGH COURT PESHAWAR

368

Inst # 24576

Civil Miscellaneous No. 1476-P/2021

In Impleadment in WP 2707/21

**Shaukat Ullah Shah & another V /s Govt of KP & others**

Presented by Qazi Jawad Ehsanullah

on behalf of appellant/petitioner.

Entered in the relevant register.

Put up again along with main case file

Dated 15 JUL 2021

*main case is already  
closed by order of  
10-11-21. (M)*

*[Signature]*  
Reader

Dated 15 JUL 2021

Countersigned

Dated 15 JUL 2021

Deputy Registrar

*[Signature]*  
Deputy Registrar

*put up to HVP Bench  
as main case  
dt. 19.7.21.*

19/07/21

*CMNO 1476 / 2021 in WP 2707/21*

*is found ripe H.V.P. 08-09-21*

*Yusuf Ali  
Jed m. 10/11/2021 (M)*

*ref. R  
ref. H*

SCANNED  
6 JUL 2021  
Signature

**ATTESTED**

*[Signature]*

IN THE PESHAWAR HIGH COURT PESHAWAR

CM No. 1476P/2021  
In-W.P No. 2707-P/2021

369

Shaukat Ullah Shah and another

VERSUS

Government of Khyber Pukhtunkhwa & Others

INDEX

S.No	Subject	Annexure	Page No.
1	CMA in Writ Petition		1-3
2	Affidavit		4
3	Vakalatnama		

Dated:

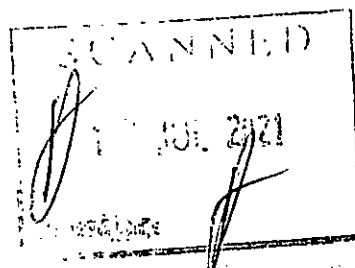
Applicants

Through

12  
11  
**Qaz Jawad Ehsanullah**  
Advocate Supreme Court of Pakistan  
Office 17-A The Mall Peshawar Cantt  
Cell No. 0300-3950682

FILED TODAY  
Deputy Registrar  
44 JUL 2021

ll  
**ATTESTED**



IN THE PESHAWAR HIGH COURT PESHAWAR

370

CM No. 1476P/2021  
In W.P No. 2707-P/2021

Shaukat Ullah Shah and another

.....PETITIONERS

VERSUS

Government of Khyber Pukhtunkhwa & Others

.....RESPONDENTS

-----  
APPLICATION FOR IMPLEADMENT OF APPLICANTS NAMED IN  
THE BOTTOM OF THIS APPLICATION AS RESPONDENTS IN THE  
SUBJECT WRIT PETITION  
-----

FILED TODAY Respectfully Sheweth;

Deputy Registrar

14 JUL 2021 That the subject Writ Petition is pending adjudication in this august court and is fixed for hearing on 15.07.2021.

2. That in substance the writ petitioners have *inter alia* questioned the process of promotion of the applicants herein whose documents have been sent for the upcoming PSB / DPC and in effect they are trying to thwart the process of promotion process of the present applicant by abusing the process of the court.
3. Since PERs etc. of the applicants herein have been send for promotion to the next higher grade, they are, therefore, necessary party to the subject petition and they crave that they may be heard while deciding the main writ petition.

  
ATTESTED

4. That names and official designation of each of the applicant praying for being impleaded as respondents in the subject writ petition is given in the bottom of this Civil Misc. Application.

It is therefore respectfully prayed that the applicants herein may please be arrayed as respondent party in main writ so that they could avail an opportunity of hearing before the august court in the subject case.

### Applicants

1. Engr. Waqas Arshad Tanoli Engineer (BPS-17)  
Deputy Director Provincial  
Expressways PKHA
2. Engr. Babar Majeed Engineer (BPS-17)  
Deputy Director Provincial  
Expressways PKHA
3. Engr. Safeer Gull Engineer (BPS-17)  
Executive Engineer C&W Division  
Shangla
4. Engr. Rafi Ullah Engineer (BPS-17)  
Executive Engineer C&W Division  
Malakand
5. Engr. Fareeha Malahat Engineer (BPS-17)  
Deputy Secretary Technical C&W  
Department Peshawar
6. Engr. Muhammad Naeem Engineer (BPS-17)  
Sr. Infrastructure Engineer (KITE)
7. Engr. Muhammad Bilal Afzal Engineer (BPS-17)  
Executive Engineer Highway Division  
Mansehra
8. Engr. Syed Hakim Shah Engineer (BPS-17)  
Executive Engineer Highway Division  
Abbottabad
9. Engr. Mehdi Raza Engineer (BPS-17)  
Executive Engineer C&W Building  
Division Kohat

FILED TODAY

Deputy Registrar

14 JUL 2021

ATTESTED

372



10. Engr. Inayat Ur Rehman Engineer  
(BPS-17)  
Design Engineer Technical, Office of  
Chief Engineer North C&W Peshawar

Through

12 \_\_\_\_\_ 14  
Qazi Jawad Ehsanullah  
Advocate High Court, Peshawar

FILED TODAY  
Deputy Registrar  
14 JUL 2021

  
ATTESTED

373

**IN THE PESHAWAR HIGH COURT, PESHAWAR**  
(Constitutional jurisdiction)

Writ Petition No. -P/2023

**Shaukatullah Shah son of Yaqoob Shah,  
Former employee of Communication and Works Department,  
Peshawar, Peshawar.**

..... Petitioner

Versus

1. **Secretary, Communication and Works Department,  
Government of Khyber Pakhtunkhwa, Peshawar.**
2. **Secretary, Establishment and Administration Department,  
Government of Khyber Pakhtunkhwa, Peshawar.**
3. **Secretary, Law Department,  
Government of Khyber Pakhtunkhwa, Peshawar.**
4. **Secretary Finance Department,  
Government of Khyber Pakhtunkhwa, Peshawar.**
5. **Additional Chief Secretary, Planning and Development Department,  
Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.**
6. **Government of Khyber Pakhtunkhwa, through  
Chief Secretary, Civil Secretariat, Peshawar.**

..... Respondents

Petitioner  
through

**Abdul Rauf Rohaila,  
Senior Advocate Supreme Court**

**Sammad Hasnain, Rozina Rehman,  
Advocates High Court.**

Rohaila, Christina and Kiyani,  
Advocates, Legal Advisors and Consultants,  
Sikander Pura, G.T. Road, Peshawar.  
[raufrohaila@gmail.com](mailto:raufrohaila@gmail.com)  
cell # 03219290960.

374

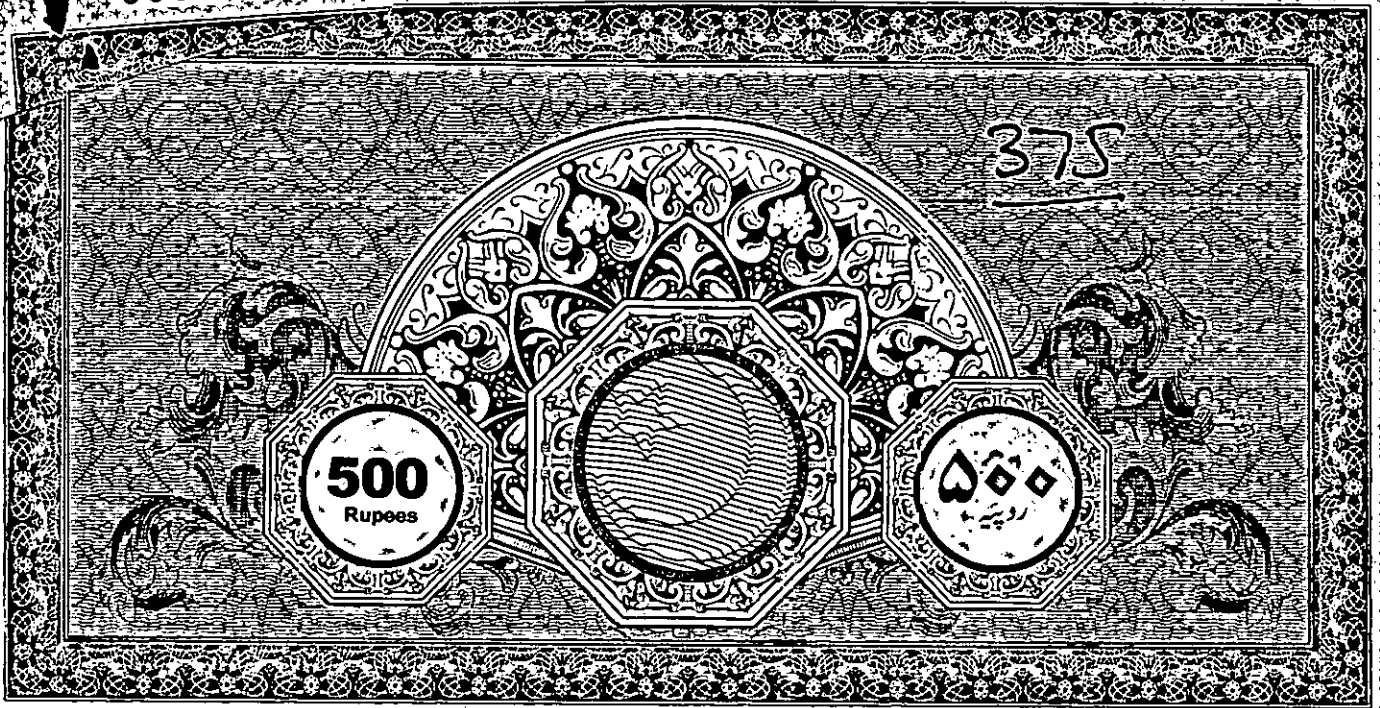
1. Secretary, Communication and Works Department,  
Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Establishment and Administration Department,  
Government of Khyber Pakhtunkhwa, Peshawar.
3. Secretary, Law Department,  
Government of Khyber Pakhtunkhwa, Peshawar.
4. Secretary Finance Department,  
Government of Khyber Pakhtunkhwa, Peshawar.
5. Additional Chief Secretary, Planning and Development Department,  
Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
6. Government of Khyber Pakhtunkhwa, through  
Chief Secretary, Civil Secretariat, Peshawar.

### NOTICE OF FILING WRIT PETITION

Please take notice that writ petition is being filed by Shaukatullah Shah challenging the legality of Notification No. SOE/C&WD/8-12/2022 issued on 25-11-2022 by Communication and Works Department.

  
Samad Hasnain,  
Advocate High Court.

000677



PAKISTAN COURT FEE

**CANCELLATION**

06 MAR 2023

**CANCELLATION**

06 MAR 2023

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*Handwritten Urdu text: لا جواب ہے*

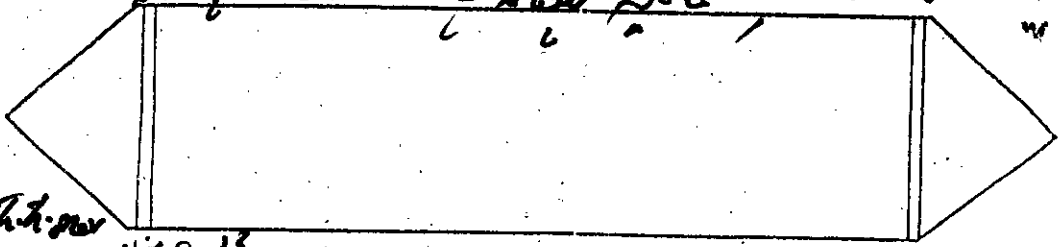
**PAKISTAN**  
06 MAR 2023

BA

*Handwritten Urdu text: محمد رفیق رحمانی*  
*Handwritten Urdu text: ایڈیشنل سیکریٹری*  
**COUNCIL FOR PETITIONER**



بعد الت مالکہ بیابانہ عاٹیکوٹ - بیابانہ



Petition  
 2 مارچ 2023  
 سیکرٹری کمیونٹی فیصلہ  
 دہلی

مورخہ  
 مقدمہ  
 دعویٰ  
 جرم  
 بیابانہ  
 بیابانہ عاٹیکوٹ

B-17-7536

1-7707745-17301-101017-0336  
 باعث کریا ننگہ

بیموٹا

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ سرکار کے پاس  
 آن مقام بیابانہ عاٹیکوٹ کیلئے معدہ نظر و فیصلہ پر بیابانہ عاٹیکوٹ  
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
 بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
 ہوگا۔ اور صاحب مقرر شدہ کو کسی دہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔  
 کوئی تازت پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
 مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سدر ہے۔

2023 مارچ  
 المرقوم  
 06 MAR 2023

کے لئے منظور ہے۔

Accepted  
 20/3/23

بقام  
 Petition

**BEFORE THE PESHAWAR HIGH COURT**  
**PESHAWAR**

**Writ Petition NO. 873-P/2023**

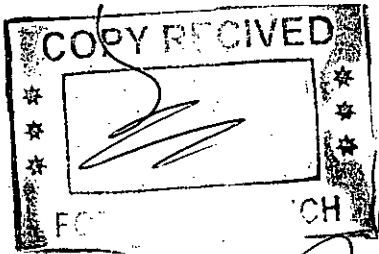
Mr. Shaukat Ullah Shah --- Petitioner  
Retired Assistant Engineer C&WD

**VERSUS**

Secretary to Govt of Khyber Pakhtunkhwa --- Respondents  
C&W Department, Peshawar

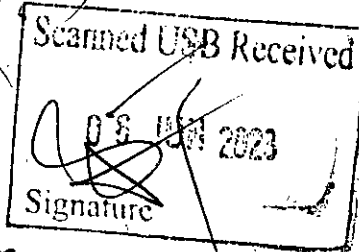
**INDEX**

S.NO.	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1	Joint Parawise Comments on behalf of Respondent No.1 to 6	-	1-5
2	Affidavit	-	6
3	Authority Letter	-	7
4	Govt of Khyber Pakhtunkhwa C&W Department Notification No.SOE/C&WD/8-12/2022 dated 25/11/2022	I	8
5	Copy of University Grants Commission letter No.8-36/UGC/A&C/2002/1666 dated 23/01/2002	II	9 (9A)
6	Copy of Judgment dated 03/10/2018 passed by the Supreme Court of Pakistan	III	10-28
7	Govt of Khyber Pakhtunkhwa Establishment Department letter No.SOE/C&WD/8-12/2022 SSRC dated 27/06/2022 alongwith working paper for SSRC.	IV	29-30 (30A) + 31 (31A)



Deponent

Zahid Ullah  
Section Officer (Litigation)  
C&W Department, Peshawar



**FILED TODAY**

**Deputy Registrar**

**06 JUN 2023**

①

**BEFORE THE PESHAWAR HIGH COURT**  
**PESHAWAR**  
**Writ Petition NO. 873-P/2023**

Mr. Shaukat Ullah Shah --- Petitioner  
Retired Assistant Engineer C&WD

**VERSUS**

Secretary to Govt of Khyber Pakhtunkhwa --- Respondents  
C&W Department, Peshawar

**PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 TO 6**

**PRELIMINARY OBJECTIONS**

- i. That subject writ petition is not maintainable as the same has been filed in violation of Article 174 of the constitution.
- ii. That the writ petition in hand is squarely hit / barred by the ouster of jurisdiction clause as contained in Art. 212 of the Constitution of the Islamic Republic of Pakistan, 1973.
- iii. That this august court lacks jurisdiction to adjudicate upon the matter.
- iv. That petitioner herein has not come to the court with clean hands and has not stated the facts of the case.
- v. That no **legal right** vests in the petitioner which could possibly be enforced through the process of court and that too in its constitutional jurisdiction.
- vi. That the petitioner does not come within the definition of **aggrieved person** by any stretch of imagination.
- vii. Furthermore, there exists no corresponding **legal obligation** which the answering respondents could be caused of violating even remotely. Thus, no writ as prayed for could at all be issued in the matter in hand.
- viii. That subject writ petition is squarely hit by **laches**.
- ix. That by abusing the process of this court the petitioner is making a designed attempt to circumvent the statute of limitation because the only statutory remedy available to him under the KP Service Tribunal Act, 1974 has been rendered time barred. This alone disentitles the petitioner to seek any respite in equity.
- x. The petition in hand is pregnant with **mala-fide** and ulterior motives. Therefore, it is liable to be dismissed simply because prerogative of writs cannot be granted in such like situation.
- xi. The petitioner herein is not entitled to any of the reliefs listed in the prayer.
- xii. The petitioner has got no *locus standi* to file the writ petition.

**FACTS:**

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**Deputy Registrar**

**06 JUN 2023**

i. Incorrect, as the Department has enhanced 3.5% quota to 10% for promotion of B.Tech (Hons) Sub Engineers to the rank of Assistant Engineer/SDO BS-17 C&W Department through Notification No.SOE/ C&WD/8-12/2014 dated 26.03.2018. Moreover, the Department also considered the promotion of B.Tech (Hons) Assistant Engineers / SDOs (BS-17) to the rank of BS-18 in light of court orders as well as high level committee which was constituted under the chairmanship of Additional Chief Secretary P&D Department. Finally a Notification dated **25.11.2022** in this behalf has been issued after fulfillment of all codal formalities (**Annex-I**). In light of the referred Notification, the promotion of Assistant Engineer/SDO (BS-17) C&W Department to the rank of BS-18 will be considered as per their seniority with at-least Five (05) years services as such and have passed the Professional Examination, as prescribed in West Pakistan Buildings & Roads Code, irrespective of any discipline.

2. Incorrect, the Existing Service Rules were framed and notified by the Provincial Government on **25.03.2010** and recent amendment has been made on **25.11.2022** for promotion of B.Tech (Hons) Assistant Engineers / SDOs (BS-17) C&W Department to the rank of BS-18, which was its sole prerogative and competency. And while framing these Rules none has been ignored. In doing so, the government, had to keep in consideration the relevant provisions of Pakistan Engineering Council Act, 1976 (PEC Act), which provides that non-engineers could not be appointed against posts meant for professional engineers. Because B-Tech (Hon.) degree/diploma holders do not come within the definition of Engineers/ Professional Engineers as prescribed in the PEC Act, 1976. The Government is empowered to frame or amend the service rules of the any Department through Standing Service Rules Committee (SSRC).

3. Incorrect. The petitioner was appointed in C&W Department as Diploma Holder Sub Engineer, who enhanced his qualification further as B-Tech (Hons). Moreover, he was promoted to the post of Sub Divisional Officer (BS-17) on **04.11.2016** and subsequently retired from Govt service on attaining the age of superannuation i.e. 60 years **with effect from 27.08.2022**, while posted as Assistant Engineer O/O Chief Engineer (Centre) C&W Peshawar.

4. As explained in para-2 above

5. Incorrect. Pakistan Engineering Council (PEC) is a regulatory body, which was created to regulate, maintain and enhance the standards of Engineering Profession and Education in the country. PEC is the only authority that equate any qualification with Engineering Education and it is held by the Apex Court in its judgment reproduced in PLD 1995, (SC) 701, in para-09 as under:

**"the PEC, however, has exclusive domain to decide, as to whether any particular qualification could be equaled with another qualification"**

6. Incorrect, as the University Grant Commission in its 39<sup>th</sup> meeting held on 12.02.1998 has categorically mentioned that:-

**"The degree of B-Tech (Hons) is not similar to BE/B.BSc Engineering Degree. Both the Degrees of B.E/B.Sc Engineering and B-Tech (Hons) be considered as two distinct disciplines of knowledge in the field of Engineering & Technology and should run parallel to each other. The committee further noted that it was upto the Employer to determine the type of qualifications required for a particular job".**

**(Authority U.G.C. Islamabad letter No. 8-36/UGC-A&C/2002/1666 dated 23.01.2002) Annex-II.**

**FILED TODAY**  
**Deputy Registrar**  
**06 JUN 2023**

7. As explained in para-1 of the facts.

8. Incorrect and misconstrued, hence denied. Petitioner cannot claim any vested right on policy decisions of the government. The Government had formulated and framed its Rules correctly and in public good. There is thus no scope / need of amending them in order to appease and accommodate few and that too at the expense of over-all functioning of the entire department. Moreover, the Government is empowered to frame or amend the service rules of the Department through SSRC.

9. As explained in para-2 of the facts.

10. Incorrect, misconceived, hence denied as the policy decisions of other Provinces (if any), are not binding on the answering respondents as they make their own policies, rules and laws in good faith and that too for the public benefit.

11. Incorrect, Supreme Court of Pakistan has announced judgment on **03.10.2018**, the operative part of the referred judgment may be perused as under **(Annex-III)**

**“the net result of above discussion is that this petition falls. It is dismissed and leave refused, however with note of caution that government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as registered engineer or professional engineer under the PEC Act”**

12. Incorrect. The fact is that as per directions of Peshawar High Court Peshawar in its judgment in writ petition No.2707-P/2021 as well as minutes of the high level committee, the working papers for amendment in the existing service rules of C&W Department for promotion to the post of (BS-18) from B.Tech (Hons)/Diploma holder Assistant Engineer/SDO (BS-17) were submitted to Establishment Department for placing before SSRC for consideration **(Annex-IV)**. Accordingly, Establishment Department scheduled a meeting of SSRC on **29.07.2022**, which was postponed and rescheduled on **18.08.2022**. After detail discussion, the forum unanimously agreed to defer the agenda item and directed the departmental representative to resubmit the revised working paper on prescribed format. In compliance, a revised working paper was prepared and submitted to Establishment Department for consideration of SSRC. A meeting of the SSRC was held on **16.09.2022** and after threadbare discussion, the forum unanimously approved the amendment **(Annex-1)**.

13. As explained in para-12 of the facts.

14. As explained in para-11 of the facts.

15. As explained in para-12 of the facts.

16. Pertain to the record of Anti Corruption Establishment Khyber Pakhtunkwa.

17. Incorrect, prompt action was taken by all the concerned offices and after fulfillment of all codal formalities, necessary Notification has been issued accordingly **(Annex-I)**.

18. Incorrect, as explained in para-15 above. The Government is empowered to frame or amend the Service Rules of any Departments through SSRC forum.

19. Incorrect. The answering respondents have not violated any right of petitioner nor caused any mala-fide or discrimination. In fact, the Department has followed the rules/policy strictly in the cases of promotion of officers/officials of the Department. Hence the stance taken in the petition is not justified.

**GROUNDS:**

1. Incorrect. As explained in para-1 of the facts. Therefore, the petitioner was not entitled for regular promotion to BS-18 under the prevailing Service Rules and was correctly dealt in accordance with law/quality. No right of the petitioner has been infringed/jeopardized.

**FILED TODAY**

Deputy

06 JUN 2023

2. Incorrect. The answering respondents have not violated any right of the petitioner nor caused any malafide or discrimination. In fact, the Department is followed rules/policy strictly in the cases of promotion of officers/officials of the Department.
3. Incorrect. The Department amended the existing service rules by issuance of a Notification dated **25.11.2022 (Annex-I)** in light of recommendations of SSRC in its meeting held on 16.09.2022.
4. Incorrect. The Government is empowered to frame or amend the Service Rules of the any Departments through SSRC forum.
5. Incorrect, as the University Grant Commission of its 39<sup>th</sup> meeting held on 12.02.1998 has categorically mentioned that:-

**"The degree of B-Tech (Hons) is not similar to BE/B.BSc Engineering Degree. Both the Degrees of B.E/B.Sc Engineering and B-Tech (Hons) be considered as two distinct disciplines of knowledge in the field of Engineering & Technology and should run parallel to each other. The committee further noted that it was upto the Employer to determine the type of qualifications required for a particular job".**

**(Authority U.G.C. Islamabad letter No. 8-36/UGC-A&C/2002/1666 dated 23.01.2002) Annex-II.**


6. Incorrect, as explained in para-1 of the facts. Moreover, neither discrimination to any individual, including the petitioner was done nor any rule or principle of law infringed, the apprehensions of the petitioner are misleading.
7. As explained in para-1 of the facts.
8. Incorrect. As explained in para-11 of the facts. Moreover, Petitioners cannot claim any vested right on policy decisions of the govt. The Department framed and formulated its rules, correctly and in public good. There is thus no scope / need of amending them in order to appease and accommodate few and that too at the expense of overall functioning of the entire department.
9. Miscalculated, false and incorrect, hence denied
10. As explained in para-3 of the facts
11. Incorrect, hence denied
12. Incorrect, as the policy decisions of other provinces (if any) are not binding on the answering respondents as they too make their own policies, rules and laws in good faith and that too for the public benefit.
13. Incorrect, as explained in para-11 of facts
14. Incorrect, as explained in para-3 of facts
15. Incorrect, as explained in para-11 of facts
16. Incorrect, as explained in para-11 of facts
17. Incorrect and misleading, hence denied. The answering respondents have acted in good faith and in strict compliance of law.
18. As explained in para-1 of the facts.
19. As explained in para-11 of the facts.
20. As explained in para-12 of the facts.
21. No comments


**FILED TODAY**

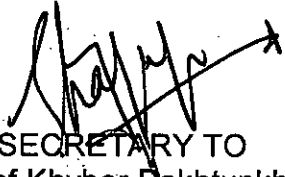
**Deputy Registrar**

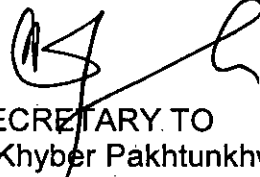
**06 JUN 2023**


It is therefore, humbly prayed that the instant writ petition being devoid of any merit may kindly be dismissed with cost

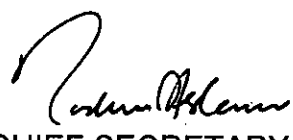
  
SECRETARY TO  
Govt of Khyber Pakhtunkhwa  
C&W Department, Peshawar  
(Respondent No.1)

  
SECRETARY TO  
Govt of Khyber Pakhtunkhwa  
Establishment Department,  
PESHAWAR (Respondent No.2)

  
SECRETARY TO  
Govt of Khyber Pakhtunkhwa  
Law Department, Peshawar  
(Respondent No.3)

  
SECRETARY TO  
Govt of Khyber Pakhtunkhwa  
Finance Department, Peshawar  
(Respondent No.4)

  
ADDITIONAL CHIEF SECRETARY  
Govt of Khyber Pakhtunkhwa  
P&D Department, Peshawar  
(Respondent No.5)

  
CHIEF SECRETARY  
Govt of Khyber Pakhtunkhwa  
(Respondents No. 6)

**FILED TODAY**

  
**Deputy Registrar**

**06 JUN 2023**

**BEFORE THE PESHAWAR HIGH COURT**  
**PESHAWAR**

**Writ Petition NO. 873-P/2023**

Mr. Shaukat Ullah Shah --- Petitioner  
Retired Assistant Engineer C&WD

**VERSUS**

Secretary to Govt of Khyber Pakhtunkhwa --- Respondents  
C&W Department, Peshawar

**AFFIDAVIT**

I, Zahid Ullah, Section Officer Litigation (BS-17) C&W Department, Peshawar hereby affirm and declare that all the contents of the Parawise comments are correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Deponent  
*(Signature)*

Zahid Ullah  
Section Officer (Litigation)  
C&W Department, Peshawar.

CNIC # 14203-2044698-7

Mob # 0340-5012785

*(Handwritten signatures)*

Identified by

Additional Advocate General,  
Khyber Pakhtunkhwa Peshawar

**FILED TODAY**  
**Deputy Registrar**  
**06 JUN 2023**

No. <i>40275</i>
Certified that the above was verified on solemnly affirmation before me in office, this <i>06</i> day of <i>June</i> <i>23</i> by <i>Zahid Ullah</i> <i>Peshawar</i>
Who was identified by <i>AAZ</i>
Who is personally known to me: <i>AAZ</i>
<i>(Signature)</i> Oath Commissioner Peshawar High Court, Peshawar.

*(Signature)* *6/6/2023*  
Oath Commissioner  
Peshawar High Court, Peshawar.



7



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT**

NO. SO (Lit.)C&W/2-1055/2023  
Dated Peshawar, the June 05, 2023

**AUTHORITY LETTER**

Mr. Zahid Ullah, Section Officer Litigation (BPS-17), C&W Department Peshawar having CNIC 14203-2044698-7 is hereby authorized to file the Parawise Comments in the Peshawar High Court, Peshawar in case titled "W.P No. 873-P/2023 Shaukat Ullah Shah Vs Govt. of Khyber Pakhtunkhwa etc".

**SECRETARY to  
Govt: of Khyber Pakhtunkhwa  
C&W Department.**



Dated Peshawar, Nov 25, 2022

2

**NOTIFICATION:**

No.SOE/C&WD/8-12/2022: In pursuance of the provision contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Communication and Works Department, in consultation with the Establishment Department and the Finance Department, hereby directs that in this Department's Notification No.SOE/C&WD/8-12/2009, dated 25<sup>th</sup> March, 2010, the following further amendment shall be made, namely:

**AMENDMENTS**

In the APPENDIX, under the heading "ENGINEERING SERVICE", for Serial No. 3, the following shall be substituted, namely:

1	2	3	4	5
"3.	Executive Engineer/ Design Engineer/ Senior Engineer/ Research Officer/ Deputy Director Technical/ Senior Engineer (Survey and RMU) (BPS-18).	--	--	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Sub Divisional Officer, Assistant Engineer, Junior Engineer and Assistant Research Officer with at least (five) years service as such and have passed the Professional Examination as prescribed in West Pakistan Buildings and Roads, Code".

**SECRETARY TO  
Government of the Khyber Pakhtunkhwa  
Communication and Works Department**

Endst of even number and date

Copy is forwarded to the:-

1. All Administrative Secretaries, Govt of Khyber Pakhtunkhwa
2. Secretary to Governor Khyber Pakhtunkhwa, Peshawar
3. Principal Secretary to Chief Minister Khyber Pakhtunkhwa, Peshawar
4. All Chief Engineers C&W Department
5. Managing Director PKHA Peshawar
6. Secretary Khyber Pakhtunkhwa Public Service Commission Peshawar
7. All Superintending Engineers C&W Circles
8. Superintending Engineer Maintenance Peshawar
9. Superintending Engineer C&W Circle North Waristan at Bannu
10. Superintending Engineer Mega Projects
11. All Executive Engineers C&W/Building/Highway Divisions
12. Section Officer (R-V) Establishment Department, Peshawar
13. Section Officer (Policy) Establishment Department, Peshawar
14. Deputy Legislation Officer-IV, Law Department, Peshawar
15. Managing Printing Press for publication in the issue of next Govt gazette
16. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar
17. PS to Advisor to Chief Minister Khyber Pakhtunkhwa for C&W Department
18. PS to Secretary, C&W Department, Peshawar
19. PA to Addl: Secretary, C&W Department, Peshawar
20. PA to Deputy Secretary (Admh), C&W Deptt, Peshawar
21. Office File

*Ijaz Khan*  
(IJAZ KHAN)  
SECTION OFFICER (Estb)

*attested*  
  
Section Officer (Litigation)  
Khyber Pakhtunkhwa  
C&W Department

Annex-11

یونیورسٹی گرانٹس کمیشن اسلام آباد  
UNIVERSITY GRANTS COMMISSION  
H-9, Islamabad - Pakistan  
Tel: +92-51-9257655, 9257651-55, Fax: 51-9290128  
E-mail: ugc@isb.paknet.com.pk

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Dated 23.01.2002.

No. S-36/UGC-A&C/2002/1666

Mr. Yousaf Khan,  
LS-II,  
Tench Bhatta Subdivision,  
Bakra Mandi Chowk,  
Rawalpindi.

Subject:- EQUIVALENCE OF B.TECH (HONS) DEGREE

Dear Sir,

Reference your application dated 19.01.2002 on the above subject. Appended below is a decision of the Equivalence Committee of UGC taken in its 39th meeting held on 12.02.1998.

"The degree of B.Tech (Hons) is not similar to B.E/B.Sc Engineering degree. Both the degrees of B.E/B.Sc Engineering & B.Tech (Hons) be considered as two distinct disciplines of knowledge in the field of Engineering and Technology and should run parallel to each other. However, B.Tech (Hons) may be treated at par and comparable with B.E/B.Sc Engineering degree holders as far as grades, pay and promotions and other benefits are concerned. The Committee further noted that it was up to the employer to determine the type of qualification required for a particular job."

Yours sincerely,

Dr. Muhammad Latif Virk  
Adviser (A&C)

affixed  
[Signature]

Section Officer (Litigation)  
Khyber Pakhtunkhwa  
C&W Department

**BETTER COPY**

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UNIVERSITY GRANTS COMMISSION  
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Email: [ugc@isb.paknet.com.pk](mailto:ugc@isb.paknet.com.pk)

No. 8-36/UGC-A&C/2002/1666

Dated: 23.01.2002.

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Tench Bhatta Subdivision,  
Bakra Mandi Chowk,  
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Yours sincerely,

SD/-

Dr. Muhammad Latif Virk  
Adviser (A&C)

*attk*  
Section Officer (Litigation)  
Khyber Pakhtunkhwa  
C&W Department

Annex-III

10

**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Mr. Justice Gulzar Ahmed  
Mr. Justice Qazi Faez Isa  
Mr. Justice Sardar Tariq Masood

**C.P.No.78-K of 2015**

[On appeal against order dated 21.11.2014  
passed by the Sindh Service Tribunal,  
Karachi, in Appeal No.195 of 2014]

Maula Bux Shaikh & others

Petitioner(s)

**VERSUS**

Chief Minister Sindh & others

Respondent(s)

For Petitioner No.1 : Mr. Salah-ud-Din Ahmed, ASC  
For Petitioner Nos.2-3 : Mr. Rasheed A Rizvi, Sr. ASC  
For Respondent Nos.1-4 : Mr. Sabtain Mehmood, Asstt:A.G. Sindh  
For Respondent No.5 : Mr. Ghulam Haider Shaikh, ASC  
For Respondent Nos.6-7 & 9 : Nemo  
For Respondent Nos.8 & 12 : Dr. Muhammad Farough Naseem, ASC  
For Respondent Nos.10-11, 13-17 : Mr. M. Aqil Awan, Sr. ASC  
Date of Hearing : 24.04.2018

**JUDGMENT**

**GULZAR AHMED, J.**— Maula Bux Shaikh, Petitioner No.1, (the Petitioner) had filed a Service Appeal before the Sindh Service Tribunal, Karachi, (the Tribunal) challenging Notification No.SOI(W&S)E/12-1/2005 dated 19.03.2014 to be ultra vires the Pakistan Engineering Council Act, 1976 (PEC Act). The circumstances under which the Service Appeal was filed by the Petitioner are that he was employed as Sub Engineer BS-11 in the year 1985 in the Works and Services Department, Government of Sindh, Karachi. He was

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Engr. Niaz Sarwar

Engr. Sadique Khan

(11)  
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promoted as Assistant Engineer BS-17 in the year 1997 and since then has been serving in such post in his said department. The case of the Petitioner is that he is a qualified engineer holding degree of Bachelor of Engineering. He has unblemished service record and is eligible for promotion to the post of Executive Engineer BS-18 but on account of the notification, referred to above, his chance for promotion as Executive Engineer BS-18 has been gravely diminished for the reason that said notification has provided 13% promotion quota to Diploma holders and 7% promotion quota to B.Tech (Hons) Degree holders for the post of Executive Engineer BS-18. The grievance of the Petitioner is that the post of Executive Engineer BS-18 being that of a purely professional engineering work could only be performed by a professional engineer holding accredited engineering qualification, as provided in the PEC Act.

2. We have heard learned ASCs for the parties at length and have gone through the record of the case. The learned ASCs for the parties have also filed their written note of arguments, which too have been perused by us.

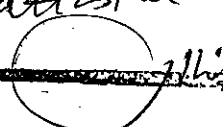
3. The notification dated 19.03.2014 is as follows:

**NOTIFICATION**

No.SOI(W&S)E.W/12-1/2005: In pursuance of Sub-Rule (2) of Rule-3 of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules 1974 and in consultation with the Services, General Administration & Coordination Department, Government of Sindh, and in partial modification of this Department's Notification No. EI(C&W)1-34/B1-84(86) dated 14.01.1987, the method, qualification and other conditions for appointment in respect of the post of Executive Engineer (BPS-18) (Civil/Mechanical/Electrical) in Works & Services Department, Government of Sindh mentioned in column-2 of the table below:-

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- Engr. Niaz Sarwar
- Engr. Sadiq Nadeem



TABLE

Name of the post with BS	METHOD OF APPOINTMENT
1	2
Executive Engineer (Civil/Mechanical & Electrical) (BPS-18)	<p>i) Eighty percent by promotion from amongst the Assistant Engineers B.E. in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology.</p> <p>ii) Thirteen percent by promotion from amongst the Diploma holder Assistant Engineers having Diploma in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology and</p> <p>iii) Seven percent by promotion from amongst the Assistant Engineers having B.Tech (Hons) degree in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology.</p>

QAZI SHAHID PERVEZ  
SECRETARY TO GOVT. OF SINDH

4. In order to regulate the engineering profession, the Parliament has passed PEC Act on 10.01.1976. Section 2(ii) of the PEC Act defines accredited engineering qualification, which is as follows:

**"accredited engineering qualification" means any of the qualification included in the First Schedule or the Second Schedule"**

5. It is common ground that neither Diploma nor B.Tech (Hons) Degree are accredited engineering qualification for the reason that there is no reference to the Diploma and B.Tech (Hons) Degree in the accredited engineering qualification provided in the first and second schedule of the PEC Act. Thus, accredited engineering qualification is ascribed to those who hold Bachelor Degree in Engineering from

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accredited Engineering Universities/Institutions in Pakistan and abroad.

6. Professional Engineer is defined in Section 2(xxiii), which is as follows:

"professional engineer" means a person who holds an accredited engineering qualification and after obtaining a professional experience of five years, whether working privately or in the employment of an engineering public organization, has passed the prescribed engineering practice examination and is registered as such by the Council.

7. Professional Engineering Work is defined in Section 2(xxv) as follows:

"professional engineering work" means the giving of professional advice and opinions, the making of measurements and layouts, the preparation of reports, computations, designs, drawings, plans and specifications and the construction, inspection and supervision of engineering works, in respect of—

(a) railways, aerodromes, bridges, tunnels and metalled roads;

(b) dams, canals, harbours, light houses;

(c) works of an electrical, mechanical, hydraulic, communication, aeronautical power engineering, geological or mining character;

(d) waterworks, sewers, filtration, purification and incinerator works;

(e) residential and non-residential buildings, including foundations framework and electrical and mechanical systems thereof;

(f) structures accessory to engineering works and intended to house them;

(g) imparting or promotion of engineering education, training and planning, designing, development construction, commissioning, operation, maintenance and management of engineering works in respect of computer engineering, environmental engineering, chemical engineering, structural engineering, industrial engineering, production engineering, marine engineering and naval architecture, petroleum and gas engineering, metallurgical engineering, agricultural engineering, telecommunication engineering, avionics and space engineering, transportation engineering, air-conditioning ventilation, cold storage works, system engineering, electronics, radio and television engineering, civil

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engineering, electrical engineering, mechanical engineering and biomedical engineering etc;

(h) organizing, managing and conducting the teaching and training in engineering universities, colleges, institutions, Government colleges of technology, polytechnic institutions and technical training institutions;

(i) preparing standard bidding or contract documents, construction cost data, conciliation and arbitration procedures; guidelines for bid evaluation, prequalification and price adjustments for construction and consultancy contracts; and

(j) any other work which the Council may, by notification in the official Gazette, declare to be an engineering work for the purposes of this Act;"

8. Registered Engineer is defined in Section 2(xxvii) as follows:

"registered engineer" means a person who holds an accredited engineering qualification, whether working privately or in the employment of an engineering public organization and is registered as such by the Council. Registered Engineer shall perform all professional engineering works except independently signing design.

9. Section 10(1) of the PEC Act provides:

"The engineering qualifications granted by engineering institutions in Pakistan which are included in the First Schedule shall be the accredited engineering qualifications for the purposes of this Act."

10. While section 11(1) provides:

"The engineering qualifications granted by engineering institutions outside Pakistan which are included in the Second Schedule shall be accredited engineering qualifications for the purposes of this Act."

11. Section 27 of the PEC Act provides for penalties and procedure, which is as follows:

"27. Penalties and procedure.— (1) After such date as the Federal Government may, after consultation with the Council, by notification in the official Gazette, appoint in this behalf, whoever undertakes any professional engineering work shall, if his name is not for the time being borne on the Register, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

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(2) After the date appointed as aforesaid, whoever employs for any professional engineering work any person whose name is not for the time being borne on the Register shall be punishable, on first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and on a second or subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

(3) Whoever willfully procures or attempts to procure himself or itself to be registered under this Act as a registered engineer, professional engineer, consulting engineer, constructor or operator by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, and any person who assists him therein shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(4) Whoever falsely pretends to be registered under this Act, or not being registered under this Act, uses with his name of title any words or letters representing that he is so registered, irrespective of whether any person is actually deceived by such pretence or representation or not, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(5) No person undertaking any professional engineering work shall, unless he is registered under this Act, be entitled to recover before any court or other authority any sum of money for services rendered in such work.

(5A) No person shall, unless registered as a registered engineer or professional engineer, hold any post in an engineering organization where he has to perform professional engineering work.

(6) No court shall take cognizance of any offence punishable under this Act save on complaint made by, or under the authority of, the Council.

(7) No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act."

12. The main gist of the arguments of the learned ASC appearing for the petitioners is that the work of Executive Engineer BS-18 is strictly that of a Professional Engineer and it can only be performed by a Professional Engineer, who has engineering degree from an Accredited Engineering Institution of Pakistan or abroad as included in the first and second schedule of the PEC Act, Diploma holders and B.Tech

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(Hons) Degree holders are not professional engineers and cannot perform work of a Professional Engineer and that law specifically provides penalties to those who perform professional engineering work without possessing accredited engineering qualification and registered as Professional Engineer by the Pakistan Engineering Council (the Council).

13. On the other hand, learned ASC appearing for the respondents have contended that this very issue has come up before this Court number of times and this Court has dealt with it time and again and held that in the matter of employment and promotion etc, the Government Institutions are legally entitled to take decisions as a matter of policy to grant promotion to employees in Engineering Public Organization who are Diploma holders in engineering and B.Tech (Hons) Degree holders.

14. We have noted that the Tribunal in the impugned judgment has referred to number of judgments of this Court and the point in issue in those judgments substantially also deals with the present controversy before us. Thus before dilating upon the matter, it is essential that we examine the judgments, which this Court has already delivered and are also referred in the impugned judgment of the Tribunal. The first case in line is a judgment of three members bench of this Court in the cases of PAKISTAN DIPLOMA ENGINEERS FEDERATION (REGISTERED) THROUGH ITS CHAIRMAN V/s FEDERATION OF PAKISTAN THROUGH SECRETARY MINISTRY OF WATER & POWER, GOVERNMENT OF PAKISTAN, ISLAMABAD & 9 OTHERS (1994 SCMR 1807). In this case the question involved was whether the Diploma Engineers employed in Pakistan Railways can be debarred from promotion to Grade-18 on the

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ground that they are not registered as "professional engineers and consulting engineers" with Pakistan Engineering Council even though they were otherwise by reasons of their seniority etc eligible for promotion to Grade-18. While referring to the case of MUHAMMAD AZIM JAMALI AND 11 OTHERS V/S GOVERNMENT OF PAKISTAN, THROUGH SECRETARY/ CHAIRMAN, MINISTRY OF RAILWAYS, AND 33 OTHERS (PLJ 1992 Karachi 1) = (1992 PLC(CS) 637), where split decision was given by two Hon'ble Judges of Sindh High Court and ultimately It was referred to a Referee Judge for his opinion. This Court In dealing with the case before it relied upon the conclusion reached by the Referee Judge and quoted the same in the judgment as follows :

\*16. The conclusion of the learned Chief Justice was expressed as follows:

"A careful reading of subsections (1) and (2) of section 27 of the Act will show that the penalties prescribed in the section are attracted only against those persons who are not registered under the Act but undertake any professional engineering work as defined in the Act. Similarly, the person who employs a person who is not registered under the Act, on a professional engineering work, is equally liable for punishment under the Act. The above provisions are wide enough to include the cases of those persons who may be employed in any private or Governmental organization and are called upon to undertake any professional engineering work. The provisions of the Act, regarding registration of professional engineer and consulting engineer, therefore, in my view, would not be applicable to the persons serving as engineer with the Railways, as in course, of their such employment they neither act as 'professional engineer' nor as 'consulting engineer'. However, if such persons undertake any professional engineering work as defined under the Act, then the provisions regarding registration under the Act will be attracted and they could also be punished in accordance with the provision of section 27 of the Act for violating the provision of the Act."

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15. On the basis of such conclusion of the Referee Judge, this Court proceeded to make its own observation, which is as follows:

17. The above judgment of the High Court was not challenged either by the qualified engineers who held degrees from recognized Institutions of Pakistan nor by the diploma-holders but only by the Pakistan Engineering Council (which was one of the respondents in the Constitution Petition filed in the High Court). According to the Pakistan Engineering Council, the provisions of the Pakistan Engineering Council Act had not been correctly interpreted because the judgment of the majority in the High Court, it appeared to the Council had laid down that the Act applied to engineers engaged in professional engineering works in the private sector whereas the application of provisions of the Act according to them, could not be restricted only to the private practitioners alone.

18. We on the other hand after hearing Mr. Abid Hassan Minto learned Advocate for the appellant at considerable length consider that this is not a correct interpretation of the judgment of the High Court. The High Court has clearly stated that the provisions of the Act were wide enough to include cases of those persons engaged in professional engineering works whether employed in any private or Governmental organization, if they are called upon to undertake any professional engineering work, as defined under the Act. In fact in the connected case C.A.No.31 of 1992 a Committee of Secretaries constituted by the Punjab Government correctly summed up the true position obtaining in the Act as follows:--

"The Committee was of the view that the Government could appoint a non-graduate engineer to a post in any grade but if the post involved performance of professional engineering work such appointment would attract penalties prescribed in the Act.

The finding of the Referee Judge in this case is to the same effect and in our opinion this finding is quite correct."

16. The next case in line is a judgment of five member bench of this Court in the case of FIDA HUSSAIN V/S THE SECRETARY, KASHMIR AFFAIRS AND NORTHERN AFFAIRS DIVISION, ISLAMABAD & ANOTHER (PLD 1995 Supreme Court 701). In this case facts were that petitioner was appointed as Overseer/Sub-Engineer in northern area PWD in

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1971. The Federal Government, in order to encourage the diploma holders to improve their academic qualification resolved to prescribe courses namely B.Tech (Pass) and B.Tech (Hons). The later was treated as equivalent to B.Sc. (Engineering) and Bachelor of Engineering for the purpose of promotion. Petitioner having passed B.Tech (Pass) and B Tech (Hons) was denied promotion in BPS-17 for the reasons that B.Tech (Hons) was not recognized by Pakistan Engineering Council as equivalent to B.Sc. (Engineering) Degree. Petitioner filed Service Appeal, which was dismissed. The Appeal filed by the petitioner before this Court was also dismissed. The petitioner then applied for review, which was allowed and the judgment dismissing the Civil Appeal was recalled and his appeal was allowed with directions to consider the petitioner's case of promotion to BS-17. The Court while allowing relief to the petitioner observed as follows:

"9. In this regard, we may point out that it is the domain of the Government concerned to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one Grade to another higher Grade and whereas it is in the domain of the Pakistan Engineering Council to decide, as to whether a particular academic qualification can be equated with another academic qualification, but it has no power to say that the civil servants/employees holding particular academic qualification cannot be promoted from a particular Grade to a higher Grade. The main object of the Act as pointed out by one of us (Ajmal Mian, J.) and Saidduzaman Siddiqui, C.J. (as he then was) in the above High Court judgment is to regulate the working of professional engineers and consulting engineers and not to regulate the qualification or the working of the engineers in the Government or semi-Government departments. The definitions of the terms "professional engineer" and "professional engineering work" given in clauses (j) and (k) of section 2 of the Act are to be read together and, therefore, as a corollary to the same, it must follow that the term "professional engineering work" as defined in clause (k) of section 2 of the Act is to be performed by a professional engineer as defined in clause (j) thereof, which is evident from section 8 of the Act, which defines the functions of the Pakistan Engineering Council as under:-

8. Functions of the Council.--- The following shall be the functions of the Council, namely:--

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- (a) maintenance of a Register of person qualified to practice as professional engineers and consulting engineers;
  - (b) recognition of engineering qualifications for the purpose of registration of professional engineers and consulting engineers;
  - (c) removal of names from the Register and restoration to the Register of names which have been removed;
  - (d) laying down of standards of conduct for the members;
  - (e) safeguarding the interest of the members;
  - (f) promotion of reforms in the engineering profession;
  - (g) management of the funds and properties of the Council;
  - (h) Promotion of engineering education and review of courses of studies in consultation with the Universities;
  - (i) levy and collection of fees from applicants for registration, or temporary licences and members;
  - (j) exercise of such disciplinary powers over the members and servants of the Council as may be prescribed;
  - (k) formation of such committees as may be prescribed; and
  - (l) performance of all other functions connected with, or ancillary or incidental to, the aforesaid functions."

A perusal of the above quoted section shows that the Pakistan Engineering Council is vested with the functions to regulate the persons qualified to practice as professional engineers and consulting engineers and not persons who are employed in the Government or semi-Government organisations. If the Government employs a professional engineer as defined in the Act for performing professional engineering work as envisaged by the Act in above clause (k) of section 2, the provisions of the Act would be attracted and not otherwise.

10. Reverting to the merits of the present case, as pointed out hereinabove, that the petitioner pursuant to the above decision of the Government of Pakistan dated 26.10.1973 passed his B.Tech (Pass) in 1977 and B.Tech (Honours) in March, 1981, from the NED University Karachi, and, therefore, acted upon the above representation of the Government. In this view of the matter, it is not just and fair not to consider the petitioner

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for promotion to BPS-17 keeping in view the admitted fact that a number of other civil servants/employees in the same department in the same position have been promoted by the departments/organisations concerned. In this behalf, it may be pertinent to refer to the case of Mukhtar Ahmad and 37 others v. Government of West Pakistan through the Secretary, Food and Agriculture, Civil Secretariat, Lahore and another (PLD 1971 SC 846). The fact of the above case were that the persons possessing the qualifications mentioned in Rule 7 of the West Pakistan Agricultural Engineering Service (Class II) Rules, 1963 were not available. The Government launched a scheme for training of Assistant Agricultural Engineers, whereunder 46 Graduates in B.Sc. Agriculture were to be selected for appointment as Assistant Agricultural Engineers after their successful completion of two years' diploma course at an Agricultural University. The above scheme was discussed by the government with the Public Service Commission. The candidates selected by the Public Service Commission, who were about to complete their training of two years, were informed by the government that they would have to appear again before the Public Service Commission to be selected for appointment to the posts of Assistant Agricultural Engineers (Class-II). The candidates asserted that after the completion of their training they were entitled to be appointed as Assistant Agricultural Engineers (Class-II) in terms of the offer made to them and they could not be required to appear again before the Public Service Commission for such appointment. On the other hand, the Government contended that the candidates did not possess the qualification prescribed by Rule 7 of the West Pakistan Agricultural Engineering Service (Class II) Rules, 1963, for appointment to such posts. The matter came up for hearing before this Court in the form of an appeal with the leave of this Court filed by the candidates against the judgment of a Division Bench of the erstwhile High Court of West Pakistan. The same was allowed and inter alia the following was concluded:--

"The offer of the Government and its acceptance by the appellants constituted a valid agreement and the Governor's order dated the 1<sup>st</sup> July, 1965 provided the authority for such an agreement. This agreement is capable of being enforced in law. The Government was both competent and obliged to implement that agreement. When the Governor's order, dated the 1<sup>st</sup> July, 1965, provided a special authority for recruitment to the 46 posts of Assistant Agricultural Engineers, rule 7 of the Recruitment Rules was not applicable in this case."

11. The above case supports the petitioner's stand. Another aspect which escaped notice of this Court in the judgment under review is that some of the other civil servants/employees placed in the same position as the petitioner was had been considered for promotion to BPS-17 and in fact were promoted, whereas the petitioner was

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Faisalabad

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denied the above benefit which amounted to violation of inter alia Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973. In this regard, reference may be made to the case of I.A. Sherwani and others v. Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041).

12. The judgment of this Court in the case of Muhammad Siddique Nasim (supra) relied upon by the Tribunal is distinguishable for more than one reason, firstly, in the above case the notification of the Government of Punjab dated 8.2.1961 equivalising B.Tech (Honours) with B.Sc Engineering degree was withdrawn on 15.03.1985, whereas the petitioner received degree of B.Tech (Honours) in June, 1985, i.e. after the withdrawn of the notification whereas in the present case, admittedly the petitioner passed his B.Tech (Honours) in March, 1981, before the Pakistan Engineering Council through its Registrar's above letter dated 24.4.1984 stated that there was typographical error in the above-quoted portion of its Registrar's letter dated 30.04.1981. Secondly, in the judgment in the case of Pakistan Diploma Engineers Federation (Registered) through its Chairman (supra), this Court affirmed the majority view of the High Court of Sindh in the case of Muhammad Azim Jamali (supra), in which it has been held that the provisions of the Act are applicable only to professional engineers and consulting engineers who are in practice and not to the persons working in the Government departments, autonomous bodies, local authorities and private firms or companies.

13. We may again observe that it is exclusively within the domain of the Government to decide whether a particular qualification will be considered sufficient for promotion from a particular Grade to a higher Grade and it is also within the domain of the Government to change the above policy from time to time as nobody can claim any vested right in the policy. However, it cannot abdicate its power to decide the above question in favour of a corporate body which is not in its control nor it can act in a manner which may be violative of Article 25 of the Constitution on account of being discriminatory. It is still open to the Government for future to provide that academic qualification of B.Tech (Honours) will not be considered sufficient for promotion from BPS-16 to BPS-17 if the same does not violate the above principle."

17. Next case is a judgment of two members bench of this Court in the case of MUHAMMAD YOUNUS AARAIN V/S PROVINCE OF SINDH THROUGH CHIEF SECRETARY, SINDH, KARACHI & 10 OTHERS (2007 SCMR 134). The case before the Court was of promotion to BS-20 by a Diploma holder employee. The Court dealt with the subject and observed as follows:

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Islamabad

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Chief Officer (Litigation)  
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"7. The basic qualification for a professional engineer under the law is B.Sc. degree in engineering from a recognized institution in Pakistan and diploma in engineering is not a recognized qualification for a professional engineer in terms of PEC Act, 1976. The service rules governing the service of the petitioner (SCUG Service Rules, 1982) and the promotion policy of the Government of Sindh, would neither override the provisions of the above Act nor relax the requirement of basic qualification of professional engineer for a promotion to BPS-20 in the engineering branch of Government of Sindh. The relevant provision of SCUG Service Rules, 1982, is reproduced hereunder:--

"V-Engineering Branch.

1. Grade 20 By selection on merit from among the members of the service in Grade-19 of the Engineering Branch with at least 17 years experience as such in Grade-17 and above."

8. The above rule envisages clearly that a person can be considered for promotion to BPS-20 in the Engineering Branch of Government of Sindh, subject to fulfilment of the condition of basic qualification of a professional engineer prescribed under Pakistan Engineering Council Act, 1976 and a diploma holder being not a professional engineer in terms of PEC Act, 1976 cannot hold a post carrying responsibilities of a qualified professional engineer. The eligibility of a person for promotion from BPS-19 to BPS-20 in the Engineering Department of Government of Sindh is subject to the fulfilment of the requirement of basic qualification with requisite experience as provided in SCUG Service Rules, 1982 in the relevant field therefore, neither any concession could be given to the petitioner in the matter of his eligibility to hold the post in BPS-20 nor the requirement of basic qualification could be relaxed by the Court or by Selection Board. The careful examination of rules on the basis of which petitioner asserted the claim of promotion to BPS-20 against the post carrying responsibilities of a professional engineer, would show that his claim was without any substance and that a diploma holder on the basis of his experience alone, would stand at par to a person registered as professional engineer with Pakistan Engineering Council."

18. The other case is a judgment of three members bench of this Court in the case of NAZIR-UL-HASAN & 2 OTHERS V/S SYED ANWAR IOBAL & OTHERS (2014 SCMR 1827). In this case, respondent No.1 was working as an Assistant Director BS-17. The petitioners were senior to him and were promoted to BS-18 despite the fact that petitioners were holding qualification of Diploma whereas respondent

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Court Associate  
Supreme Court of Pakistan  
Islamabad

attested  
Section Officer (Litigation)  
Khyber Pakhtunkhwa  
C&W Department

No.1 was Bachelor of Engineering (Electrical). The respondent No.1 challenged the promotions of petitioners in the High Court. The High Court set aside all promotions of petitioners on the ground that they did not hold valid engineering degree. This Court in the reported judgment has dealt with the matter and observed as follows:-

6. Admittedly the petitioners were Assistant Directors in the respondent Authority with at least 5 years service in the relevant field and hence in our opinion they fulfill the requirement. It would be seen that when the petitioners were considered for promotion in 2012 the rules in force were the Pakistan Standards Institution Recruitment Rules for class one posts wherein per rule 5 the post of deputy Directors to be filled in by promotion could be done from amongst Assistant Directors category one with at least 5 years service in the Institution. Nowhere in the said rules was it provided that they would be professional engineers or for that matter even diploma holders. In fact such condition is prescribed in rule 6 which provides for direct appointments whereby per the schedule to the same an Assistant Director must hold a Master's Degree in Science or Bachelors Degree in Engineering in the specified field from a recognized university with at least 3 years experience in that field etc. Admittedly the petitioners were appointed by promotion and hence in our opinion no such condition can be placed upon them as in the case of a direct appointees. Insofar as the case of Muhammad Younus Aarain (supra) is concerned, the same is distinguishable on facts as therein it was found that under Sindh Council Unified Grades Services Rules the basic qualification for promotion to BS-20 was that the candidates should have B.Sc. Degree in Engineering. As observed above this is not the case in the present matter. It would further be seen that now per section 26 of the Pakistan Standards and Quality Control Authority Act, 1996 rules have been framed which have been notified in the official gazette on 15<sup>th</sup> May, 2013. Under Rule 5 promotion to the post in BS-1 to 19 shall be made on the basis of seniority-cum-fitness etc. and he or she should also fulfill the conditions contained in schedule to the rules according to which for promotion to the post of Deputy Director Technical the eligible person would be an Assistant Director Technical and he should have 5 years experience in BS-17 in technical matters. Nowhere has it been prescribed that he or she should be a qualified engineer.

7. In the circumstances we find that the Impugned order has unnecessarily been influenced by the comments of the Pakistan Engineering Council that no post carrying any Engineering responsibility could be entrusted to non-engineering graduates. In our opinion, it is for the department/institution itself to determine as to whether the persons in its service are fit to hold a particular position. In the present case it has been done by the

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Supreme Court of Pakistan  
Islamabad

Myber Park  
G&W Department

authority and rules have been framed thereunder which have been followed by the promotes/petitioners. Consequently the impugned order is set aside and the promotion of the petitioners is upheld."

19. On examination of above case law, we note that nowhere in the judgments, the government power to prescribe for qualification and other conditions of service for promotion to a post has been assailed nor the judgments have put any sort of embargo on the government in prescribing the qualification and other conditions of service for a post for the purpose of promotion. Having said this, the judgments as discussed above, have rather focused on the government power in this regard to be unfettered to the extent that it is not in derogation of any law or provisions of the Constitution.

20. Further, the main principle that is deductible from the above judgments of this Court is that it is the domain of the Government to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one grade to another higher grade and whereas it is in the domain of the Pakistan Engineering Council to decide whether a particular academic qualification can be equated with another academic qualification but it has no power to say that the civil servants/employees holding particular academic qualification cannot be promoted from a particular grade to a higher grade. Thus on the basis of above pronouncements of this Court, it is clear that the notification dated 19.03.2014 cannot be validly or justifiably challenged on the ground that it impinges or infringes upon any of the provisions of PEC Act, 1976 and thus would be ultravires. No such finding can justifiably be recorded in that as it has been laid down quite emphatically that the government exercises its own power under the domain of law with regard to promotion of civil

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Islamabad

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Ministry of Education  
Islamabad

servants/employees under Sindh Civil Servants Act, 1973 and Rules made thereunder while PEC Act does not overreach or put an embargo upon the government in the matter of prescribing of qualification and other conditions of service of civil servants/employees for their promotion to higher grade. Yet again, we note that although the vires of notification dated 19.03.2014 has been challenged but we observe that this very notification has been issued under sub-rule (2) of Rule 3 of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, which rules have been made under section 26 of Sindh Civil Servants Act, 1973. Neither rule 3(2) of said rules nor section 26 of the Act, 1973 have been challenged nor their vires called in question before us. Thus from this also it is quite apparent that the petitioner does not challenge the government power for prescribing qualification and conditions of service of civil servants/employees for their promotion to higher grade. In any case, we note that the provisions of PEC Act nor the rules and regulations made under it will operate as bar on government to prescribe for qualification and other conditions of service of civil servants/employees for promotion to higher grade.

21. The PEC Act as its preamble itself shows so also reading of the whole Act shows that it essentially deals with regulations of engineering profession in it, *inter alia*, it prescribes for qualification of professional engineers, maintenance of register of professional engineers and accrediting of engineering universities etc and not as a regulator of employment be that be of government service or in the private service. The reasons for it could be found that all sort of engineering work could not be and may not be a professional engineering work for performance of which professional engineers are required. For example, technician, mechanic, draftsman, foreman,

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 Supreme Court of Sindh  
 Islamabad

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 2/11/15  
 Section Officer (Liaison)  
 Khyber Pakhtunkhwa  
 C&W Department

supervisor and overseer etc at best could be a skilled workman who may work independently or under the supervision of professional engineer and for such technician, mechanic, draftsman, foreman, supervisor and overseer <sup>etc</sup> the employer may not require holding of professional engineering degree. However, if the person is required to perform any of professional engineering work as defined under the PEC Act, the provisions of this Act will come into operation for ensuring as the work of professional engineer can and only be performed by professional engineer as recognized by PEC Act. The professional engineering work has been clearly defined under section 2(xxv) of the PEC Act which has already been reproduced above and lays down in sufficient details the works which are noted to be as professional engineering works and such works as mandatorily required by the PEC Act to be performed by a professional engineer possessing accredited engineering qualification from accredited engineering institutions in Pakistan and abroad with experience and passing of test of the Council and no other person is allowed to perform professional engineering works be that be a diploma holder or B.Tech. degree holder. This aspect of the matter has been substantially addressed by the PEC Act itself when making provision of section 27(5A) that "no person shall unless registered as a registered engineer or professional engineer, hold any post in an engineering organization where he has to perform professional engineering work." Thus professional engineering work can only be performed by a person who is registered as registered engineer or professional engineer and both registered engineer and professional engineer in terms of the PEC Act are by law required to possess accredited engineering qualification as prescribed by the PEC Act from accredited engineering institution.

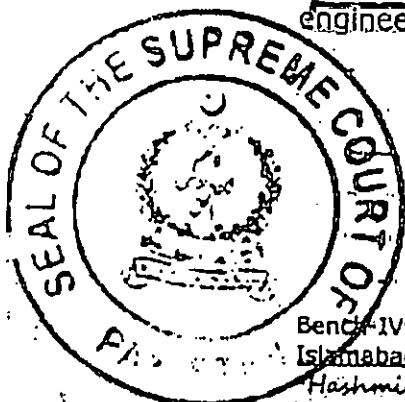
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Court Associate  
 Supreme Court of Pakistan  
 Islamabad

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 Section Officer  
 Government of Pakistan  
 C&W Department

22. We may further observe that section 27 of the PEC Act provides for penalty for a person who undertakes any professional engineering work if his name is not borne on the Register but it also makes the employer who employs for any professional engineering work any person whose name is not, for the time being, borne on the Register to perform professional engineering work, shall also be liable for penalty as prescribed in the PEC Act itself. Thus both civil servant/employee and their employer would be liable to penalty as provided under section 27 if they undertake or allow a person to undertake professional engineering work whose name is not borne on register under PEC Act.

~~23. The net result of above discussion is that this petition falls. It is dismissed and leave refused, however with note of caution that government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as a registered engineer or professional engineer under the PEC Act.~~



Bench-IV  
Islamabad  
Hashmi  
APPROVED FOR REPORTING

*Handwritten signature and date: 4/12/18*

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*Handwritten notes: Cell-5, Cell-5, Cell-5*

Certified to be True Copy

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Court Associate  
Supreme Court of Pakistan  
Islamabad

Announced in open Court on 03.10.2018

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JUDGE

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Annex-III

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/8-12/2020 SSRC  
Dated Peshawar, the June 27, 2022

To  
*[Signature]*  
30/6/22

The Secretary to  
Govt of Khyber Pakhtunkhwa  
Establishment Department, Peshawar

Subject: MINUTES OF THE MEETING OF THE COMMITTEE CONSTITUTED UNDER THE CHAIRMANSHIP OF ADDITIONAL CHIEF SECRETARY, P&D DEPARTMENT KHYBER PAKHTUNKHWA HELD ON 20.04.2022

Dear Sir,

I am directed to refer the Government of Khyber Pakhtunkhwa Establishment & Admn: Department (Regulation Wing) letter No.SOR-V(E&AD)7-1/Irrig: dated 10.06.2022 on the subject noted above and to forward herewith a working paper regarding amendment in the existing Service Rules, 2010 of C&W Department complete in all respect for placing before SSRC for consideration as desired, please.

Yours' faithfully

*[Signature]*  
27.06.2022

attested  
*[Signature]*

SECTION OFFICER (Estb)

*[Signature]*

28/6/2022  
Endst even No. & date  
Copy forwarded to the:

1. PS to Additional Chief Secretary P&D Department, Peshawar
2. Section Officer (Reg-V) Establishment Department, Peshawar
3. Section Officer (Litigation-I) Establishment Department, Peshawar
4. Section Officer (Litigation) C&W Department, Peshawar
5. PS to Secretary C&W Department, Peshawar
6. PA to Additional Secretary C&W Department Peshawar
7. PA to Deputy Secretary (Admn) C&W Department Peshawar

*[Signature]*  
27.06.2022

SECTION OFFICER (Estb)



**WORKING PAPER FOR S.S.R.C**

SUBJECT: **AMENDMENT IN THE EXISTING SERVICE RULES OF C&W DEPARTMENT FOR PROMOTION OF ASSISTANT ENGINEERS B-TECH (HONS)/ASSISTANT ENGINEERS DIPLOMA HOLDER (BS-17) TO THE POST OF EXECUTIVE ENGINEER (BPS-18)**

The B-Tech (Hons) holder Assistant Engineers (BS-17) C&WD filed writ petition No.2707-P/2021 & writ petition No.1539-P/2021 in Peshawar High Court Peshawar with the pray to create/reserve 20% quota in the posts of BS-18 & above for the employees having B-Tech (Hons) degree serving as Sub Divisional Officers/Assistant Engineers (BS-17) in respondent Department (C&WD) **Annex-I**. In the meanwhile, a high level committee was constituted under the chairmanship of Additional Chief Secretary Khyber Pakhtunkhwa in light of Competent Authority (Chief Secretary) directions to be based the TORs mentioned in the referred Notification (**Annex-II**).

2. In the afore-referred writ petitions, Peshawar High Court Peshawar has passed the orders on **24.03.2022 (Annex-III)** with the verdicts "The committee is directed to finalize its recommendations within 60 days positively".

3. Now in this regard Establishment & Admn: Department has forwarded minutes of the meeting held on **20.04.2022** for further necessary action (**Annex-IV**). In the minutes, the committee has referred the operative part of the Supreme Court of Pakistan judgment dated 24.04.2018 (**Annex-V**), which stipulates that "the net result of above discussion is that this petition fails. It is dismissed and leave refused, however, with note of caution that Government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institutions and this name is not registered as a register engineer or professional engineer under the PEC Act".

4. In the concluding para, the committee has mentioned that after thread bare discussion, in light of Supreme Court Judgment, the Khyber Pakhtunkhwa Civil Servants Act, 1973, APT Rules, 1989 and the Peshawar High Court Judgment dated 24.03.2022 regarding convening of SSRC meeting, it was unanimously recommended that C&W Department may review its existing service rules by providing opportunity/chances of promotion to the B-Tech (Hons) Degree holders and Diploma Holders Assistant Engineers on the analogy of other technical departments i.e. Irrigation, Energy & Power and PHE Departments (**Annex-VI**).

*attested*  
Section Officer  
Khyber Pakhtunkhwa  
C&W Department

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

30 A

## WORKING PAPER FOR S.S.R.C

SUBJECT: AMENDMENT IN THE EXISTING SERVICE RULES OF C&W DEPARTMENT FOR PROMOTION OF ASSISTANT ENGINEERS B-TECH (HONS)/ASSISTANT ENGINEERS DIPLOMA HOLDER (BS-17) TO THE POST OF EXECUTIVE ENGINEER (BPS-18)

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attest  
Section Officer  
Khyber Pakhtunkhwa  
C&W Department

5. In this connection, C&W Department is of view in light of operative part of Supreme Court of Pakistan judgment dated **24.05.2018** that non-professional posts not exist in C&W Department to consider the promotion of Assistant Engineers (BS-17) holding the B-Tech (Hons) and Diploma Holders, except two (02) Nos post of Deputy Director Technical (BS-18) and one number post of the Senior Engineer (Survey/ RMU) (BS-18) are available against which the promotion of the referred cadres can be considered under the referred Supreme Court of Pakistan judgment. Moreover, as per 10% quota under the existing Service Rules of C&W Department, **23 Nos posts** of Assistant Engineers/SDOs (BS-17) are filled by way of promotion from amongst B-Tech (Hons) Sub Engineers.

6. In order to implement the court directions as well as High Level Committee recommendations, C&W Department suggest the following two proposals for placing before SSRC committee for deliberation and decision:

i. Standing Service Rules Committee (SSRC) is requested to consider the amendment in the existing Service Rules of C&W Department, 2010 for promotion of Assistant Engineers (BS-17) holding the B-Tech (Hons) and Diploma Holders against non-professional posts in the department according to the judgment of Supreme Court of Pakistan and for this purpose a sub-committee may be constituted to analyze and differentiate the existing posts in C&W department in BS-18, 19 & 20 into purely professional and non-professional posts and accordingly submit proposal for amendment in promotion rules of BS-18 in C&W Department.

**OR**

ii. Standing Service Rules Committee (SSRC) is requested to consider the amendment in the existing Service Rules of C&W Department, 2010 for promotion of Assistant Engineers (BS-17) holding the B-Tech (Hons) and Diploma Holders according to their existing strength to BS-18 on the analogy of other line Departments as recommended by the High Level Committee headed by Additional Chief Secretary.

*Dehmlar*  
**DEPUTY SECRETARY (ADMIN)**  
**C&W DEPARTMENT**

*attested*  
*the*

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5. In this connection, C&W Department is of view in light of operative part of Supreme Court of Pakistan judgment dated **24.05.2018** that non-professional posts not exist in C&W Department to consider the promotion of Assistant Engineers (BS-17) holding the B-Tech (Hons) and Diploma Holders, except two posts of Deputy Director Technical (BS-18) and one number post of the Senior Engineer (Survey/RMU) (BS-18) are available against which the promotion of the referred cadres can be considered under the referred Supreme Court of Pakistan judgment. Moreover, as per 10% quota under the existing Service Rules of C&W Department, **23 Nos posts** of Assistant Engineers/SDOs (BS-17) are filled by way of promotion from amongst B-Tech (Hons) Sub Engineers.

6. In order to implement the court directions as well as High Level Committee recommendations, C&W Department suggest the following two proposals for placing before SSRC committee for deliberation and decision:

- i. Standing Service Rules Committee (SSRC) is requested to consider the amendment in the existing Service Rules of C&W Department, 2010 for promotion of Assistant Engineers (BS-17) holding the B-Tech (Hons) and Diploma Holders against non-professional posts in the department according to the judgment of Supreme Court of Pakistan and for this purpose a sub-committee may be constituted to analyze and differentiate the existing posts in C&W department in BS-18, 19 & 20 into purely professional and non-professional posts and accordingly submit proposal for amendment in promotion rules of BS-18 in C&W Department.

OR

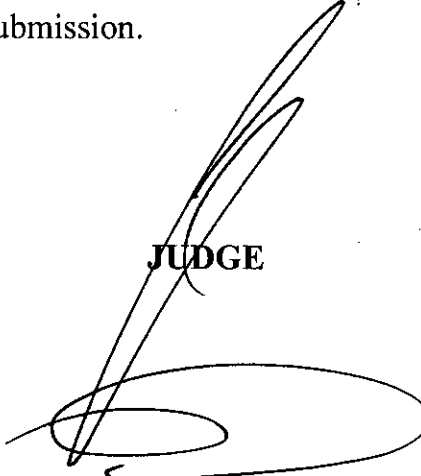
- ii. Standing Service Rules Committee (SSRC) is requested to consider the amendment in the existing Service Rules of C&W Department, 2010 for promotion of Assistant Engineers (BS-17) holding the B-Tech (Hons) and Diploma Holders according to their existing strength to BS-18 on the analogy of other line Departments as recommended by the High level Committee headed by Additional Chief Secretary.

SD/-

DEPUTY SECRETARY (ADMN)  
C&W DEPARTMENT

*attested*  
*th*  
Section Officer (Admin)  
Khyber Pakhtunkhwa  
C&W Department

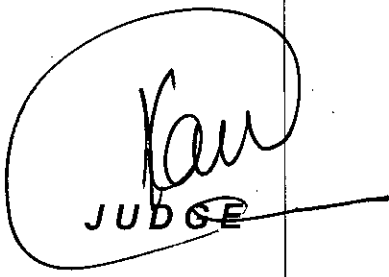

**PESHAWAR HIGH COURT PESHAWAR**  
**ORDER SHEET**

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2
28.03.2023	<p data-bbox="639 408 971 448"><b><u>W.P 873-P/2023 with IR</u></b></p> <p data-bbox="639 488 1399 647">Present: Mr. Abdul Rauf Rohaila, advocate, for the petitioner. Barrister Kamran Qaiser, AAG, for the official respondents.</p> <p data-bbox="971 732 1110 757">*****</p> <p data-bbox="613 852 1399 1126">Respondents No.1 to 4 be put on notice to file their parawise comments so as to reach this Court within fortnight, positively. Learned AAG present in Court ensures its timely submission.</p> <p data-bbox="1117 1320 1243 1355"><b>JUDGE</b></p>  <p data-bbox="1117 1559 1243 1594"><b>JUDGE</b></p>

**SCANNED**

**PESHAWAR HIGH COURT, PESHAWAR.**

**FORM OF ORDER SHEET**

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
31.07.2023	<p><u>W.P.No.873-A/2023.</u></p> <p>Present: Mr. Abdul Rauf Rohaila, Advocate for petitioner.</p> <p>Mr. Javed Akhtar, AAG for respondents.</p> <p>***</p> <p>The former seeks time to file rejoinder to the comments filed by the respondents. May do so within a fortnight, positively. Adjourned to 26.09.2023.</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: right;"> JUDGE</p>

**SCANNED**

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**IN THE PESHAWAR HIGH COURT, PESHAWAR**

(Constitutional jurisdiction)

Writ Petition No. 873-P/2023

Shaukatullah Shah

Versus

Secretary, Communication and Works Department and others

**REJOINDER ON BEHALF OF PETITIONER TO THE  
PARAWISE COMMENTS FILED BY RESPONDENTS**

Respectfully Sheweth:-

The petitioner humbly submits rejoinder to the parawise comments filed by respondents as under:-

**RESPONSE TO THE PRELIMINARY OBJECTIONS**

1. Objection No. (i) is misconceived in that Government of Khyber Pakhtunkhwa has been arrayed in the calendar of respondents' viz respondent No. 6 in term of Article 174 of the constitution. The petitioner has created vested right to be promoted in BS-18 having held XEN post from 27-4-2017 to 11-9-2019.
  
- II. Objection No. (ii) and (iii) are void ab-initio in that the petitioner is seeking indulgence of this honourable court relating to the fixation of quota for B-Tech diploma holders engineers whereas the petitioner has already retired from service on 27-8-2022. Since there is no quota in the rules, therefore, the clog contain in Article 212 of the Constitution is not attracted in the present petition.

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III. In reply to Objection No (iv), (v) and (vi), it is explained that each and every eventuality and relevant fact has elaborately been incorporated in the writ petition duly supported by plethora of documents consisting of 375 pages. The petitioner has been discriminated by the respondents which is forbidden as contain in Chapter I Part II of the Constitution relating to Fundamental rights. The superior courts in number of cases including "Moula Buakhsh" case (2018 SCMR 2098) have approved grant of quota to B, Tech.(Honor) Degree holder for promotion to BPS-18. Even such quota has been assigned by (i) Irrigation, (ii) Energy and power and (iii) Public Health Engineering of this province

IV. Relating to Objection No. (vii), (viii) and (ix), it is submitted that respondents are violating Article 4, 8, 18, 25 and 27 of the Constitution have legal obligation to deal with every citizen fairly. The respondents are legally bound to implement the mandate of Article 27. Petitioner previously filed Writ Petition No. 2707-P/2021 relating to similar prayer which was disposed of through order dated 24-3-2022. Ironically respondents did not adhere to the directions of this honourable court dated 24-3-2022 inspite of rigorous application and personal persuasion, therefore, the petitioner was constrained to file COC No. 350-P/2022 in this august court. During the pendency of COC, respondents produced notification dated 25-11-2022 in this honourable court during the hearing on 12-12-2022. In view of such development the petitioner filed present Writ Petition on 4-3-2023, therefore the objection relating to *laches* is misconceived. Due to flagrant violation of constitution provisions, the present writ petition has correctly been filed in this honourable to invoke the constitutional jurisdiction in that petitioner seeks proforma grant of BPS 18 to get pensioner benefits.

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V. Objection (x), (xi) and (xii) are evasive and repetitious. The petitioner has honestly, faithfully and with due diligence has approached this honourable court who is not being dealt in accordance with law and rules applicable. The petitioner seeks equal treatment by respondent. Since quota has been granted and fixed to B. Tech (Hon) Degree Holders in other departments of this province, therefore, refusal of respondents thereof to the petitioner has constrained the petitioner to approach this honourable court.

ON MERITS OF FACTS

1. Paras No. 1 to 3 of the writ Petition are true and correct whereas reply thereof is evasive inasmuch as Bachelor of technology (B. Tech) is the study of technology which is more practical based on creative designing whereas in BSc. it is about knowing and learning science theoretically more. B. Tech is a professional degree in engineering which is a graduate course for 7 (seven) years on the other hand BSc is a six year course both after passing matriculation examination. The mission of Pakistan Engineering Commission (PEC) is to set and maintain realistic and internationally relevant standards of professional competence and ethics for engineers and engineering institutions. PEC licenses a number of professional engineering institutions to carry out the process of accreditation or approval. This assesses whether qualifications and programmers fully or partially meet the education requirements for professional registration. It is not denied that the petitioner holds B. Tech (Honors) Degrees and was serving in Communication and Works Department, as Sub-Divisional Officers, promoted time and again and

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Deputy Registrar  
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was lastly posted as Executive Engineer in Communication and Works Department. It is conceded by respondents that 3.5% quota reserved for Sub-Engineers having Degree of B. Tech (Honor) to be promoted to BS-17 has been enhanced to 10% through notification dated 26-3-2018 but similar treatment for grant of specific quota for such engineers/ petitioner for promotion to BS-18 has been denied while issuing notification dated 25-11-2022. Such treatment is even in violation of dictum of the apex court rendered in "Moula Bakhsh" supra case. The stance of respondent is self-contradictory in that if a post of Executive Engineer, BS-18 is to be filled among the incumbents and as per criteria contain in notification dated 25-11-2022 including qualification and seniority cum fitness, B. Tech Honor) Degree holder is at top serial No. 1, such B. Tech (honor) SDO/Assistant Engineer has to be promoted irrespective of fact that he does nor possess accredited engineering qualification from the accredited engineering institution. Such exercise will be contemptuous to the directions issued by august Supreme Court of Pakistan. Unfortunately, this important aspect of the case has been ignored by respondents while issuing notification dated 25-11-2022. The respondents in reply to para 3 of writ petition have conceded that B. Tech (Honor) have been granted 1)% quota for promotion as BS-17. The record testify the fact that petitioner held the post of Executive Engineer from 27-4-2017 to 11-9-2019 and has been involved in FIR No. 1/2022 PS Anti-Corruption, PS Hango having performed duties at such post.

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 Deputy [Signature]  
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2. That the reply to paras No. 4, 5 and 6 are misleading and contemptuous. The authority of Pakistan Engineering Council is never in dispute. Nevertheless, respondents have deliberately with malafide have deliberately not mentioned the highlighted contents of UGC letter dated 23-1-2002 reproduced below:-

“The degree of B. Tech(Hons) is not similar to B.E/B.Sc Engineering degree. Both the degrees of B.E/B.Sc Engineering and B. Tech (Hons) be considered as two distinct disciplines of knowledge in the field of Engineering and Technology and should be run parallel to each other. However, B. Tech (Hons) may be treated at par and compatible with B.E/B.Sc. Engineering degree holders as for as grade pay and promotion and other benefits are concerned. The Committee further noted that it was up to the employer to determine the type of qualification required for a particular post.”

3. That paras No. 7, 8, 9 and 10 of the writ petition are true and correct whereas reply thereof is hollow and shallow. The petitioner and others approached the respondents through representation dated 15-8-2017 for reservation of 20% quota for promotion of B. Tech (Honors) degree holders to the post of BS-18 and in consequence thereof Standing Service Rules Committee (SSRC) was constituted. However meeting of SSRC could not be held as mentioned in detail in para No. 9 of the Writ Petition. Due to negative attitude petitioner was constrained to file Writ Petition No. 2707-P/2022 in this honourable court for grant and fixation of 20% quota for B. Tech (Honors) to the post of BS-18. It is matter of record that quota for such like engineers has been notified by provincial government in exercise of its powers and policy decision.

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4. The petitioner in paras No. 10, 11, 12 and 13 of the writ petition has disclosed the entire ground realities whereas reply thereof are amazing. The provincial government in the department of Irrigation Department, Energy and Power, Local Council Board and Public Health Engineering Department providing opportunity/chances of promotion to the B. Tech (Honors) Degree holders and Diploma Holders Assistant Engineers . To be promoted and appointed as BS-18. Furthermore the matter of fixation of quota for B. Tech (Honors) Engineers and Diploma Holders notified by Sind Government was challenged but Supreme court through judgment reported as “Moula Bakhsh” (2018 SCMR 2098” has maintained the quota and dismissed the petition holding that the provincial government has correctly exercised and reserved quota for promotion to B. Tech (Hons) at BS-18 posts. . The notification dated 25-11-2022 impugned in this writ petition is in defiance of such ruling of the august Supreme Court. The apex Supreme Court of Pakistan while dealing with case of “Fida Hussain Versus The Secretary Kashmir Affairs and Northern Affairs Division” (PLD 1995 SC 701) has observed at page 713 that:-

“.....Pakistan Engineering Council is vested with the functions to regulate the person qualified to practice as professional engineers and consulting engineers and not persons who are employed in the Government or semi-Government organizations. If the Government employs a professional engineer as defined in the Act for performing professional engineering work as envisaged by the Act in above clause (k) of section 2, the provisions of the Act would be attracts and not otherwise.”

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5. That the petitioner in paras No. 14, 15 16 and 17 has incorporated all relevant facts including filing of WP No. 2707-P/2021 which will reveal that respondents were deliberately delayed the completion of amendment in the recruitment rules allocating 20% quota for the B. Tech (Hons) Degree Holders for promotion in BPS-18 posts. Writ Petition was finally allowed on 24-3-2022 directing respondents to finalize the outcome of SSRC within sixty (60) days. For noncompliance of this honourable court specific orders dated 24-3-2022, the respondents took almost eight (8) months, COC No. 350-P/2022 was filed, but still no final result could be achieved. The reply of respondents to the referred paras are evasive with no substance. The petitioner has no cavil that fixation of quota falls within the domain of provincial government to frame rules but ironically such powers have not been exercised timely and appropriately.

6. Para No. 18 and 19 with grounds are the essence of the agonies of the petition. The respondents have played naked fraud with the petitioner while issuing "Notification" denying 20% quota demanded which was issued on 25-11-2022 making amendment stating that in pursuance of sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, C&W Department notified amendments in Notification No. SOE/C&WD/8-12/2009 dated 25-3-2010 as under:-

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**AMENDMENTS**

In the APPENDIX, under the heading "Engineering Service", for serial No. 3, the following shall be substituted namely:

S #	Nomenclature of the Post	Method of recruitment
1	2	5
"3"	Executive Engineer/Design Engineer/ Senior Engineer/ Research Officer/ Deputy Director Technical/ Senior Engineer (Survey/RMU) (BPS)	By promotion, on the basis of seniority-cum-fitness, from among the Sub-Divisional Officer, Assistant Engineer, Junior Engineer and Assistant Research officers with at least 05 (Five ) years' service as such and have passed the Professional Examination as prescribed in West Pakistan Buildings and Roads Code"

**ON GROUNDS**

(1) Ground (1), (2), (3) and (4) of the writ petition are based on law , facts, and ruling of the superior courts. The petitioner has been denied to grant 20% quota through "Notification" dated 25-11-2022 being B. Tech (Hons) Engineer illegally and unlawfully which cannot sustain and liable to be set aside. The malafide of the respondents is established from the record while issuing "Notification" in that the matter is being delayed on one pretext or

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other for many years. Even, after the judgment dated 24-3-2022 of this honourable court , ~~the respondents took more than 8 months to notify~~

~~disputed "Notification"~~ The record will testify the fact that petitioner was

posted as Executive Engineer from 27-4-2017 to 11-9-2019 in C&W

Department, thus vested rights have been created in his favour. The

petitioner being B. Tech (Honors) Degree holder has the right to be

promoted and grant of 20% quota has illegally been refused. A bare perusal

of "Notification" will reveal that no quota has been fixed for B. Tech (Hons)

engineers by respondents in negation of claim made by the petitioner and

other B. Tech (Hons) Engineers. The petitioner has been dealt illegally and denied his right for promotion on 20% quota which he is agitating and demanding since 15-8-2017 for fixation of quota and to make amendments in "The Rules" for promotion of B. Tech (Honos) Degree holder SDOs of BPS-17 to the post of BPS-18! The stance of respondent that Notification has been issued in the light of the recommendations of SSRC in the meeting dated 20-4-2022 does not get support from the minutes of the meeting as per working paper annexed with parawise comments (Page 29 to 31). Para 4 and 5 thereof are reproduced hereunder for ready reference.

4. In the concluding, the committee has mentioned that after thread bare discussion, in the light of Supreme Court judgment, the Khyber Pakhtunkhwa Civil Servant Act, 1973, APT Rules, 1989 and Peshawar High Court judgment dated 24-3-2022 regarding convening of SSRC meeting, it was unanimously recommended that C&W Department may review its existing service rules by providing opportunity / chances of promotion to the B. Tech (Hons) Degree holders and Diploma Holders Assistant Engineers on the analogy of other technical departments i.e. Irrigation, Energy and Power, and PHE Department.

5. In this connection, C&W Department is of view in light of operative part of Supreme Court of Pakistan judgment dated 24-5-2018 that non-professional post not exist in C&W Department to consider the promotion of Assistant Engineers (BS 17) holding the B-Tech (Honos) and Diploma Holders, except two posts (02) Nos posts of Deputy Director Technical (BS-18) and one number post of Senior Engineer (Survey/RMU) (BS-18) are available against which the promotion of the referred cadets can be considered under the referred Supreme Court Judgment . Moreover as 10% quota under the existing Service Rules of C&W Department, 23 Nos posts of Assitant Engineers/SDOs (BS-17) are filed by way of promotion from amongst B. Tech (Hons) Sub Engineers.

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(2) The stance made by the petitioner in grounds (5), (6), (7) and (8) are in line of ground realities, relevant law and rules applicable. The petitioner is being purposely and knowingly discriminated due to the apparent personal malafide of C&W high officials inasmuch as they are B. Sc. engineers and deliberately delaying 20% quota to B. Tech (Degree holders. There can be no cavil and denial that C&W department through notification dated 14-10-2014 and 26-3-2018 fixed the quota for promotion which aspect testify the claim of the petitioner that B. Sc. Engineers and B. Tech (Hons) Engineers have separate cadre. the discriminative attitude of the respondents is transparent from the fact that various departments in Khyber Pakhtunkhwa Province have granted and fixed separate quota for B. Tech (Hons) Engineers including, KP Energy and Power Department; Local Government, Election and Rural Development Department and PHE etc. It has ruled by the apex Supreme Court of Pakistan that the provincial Government is empowered and authorized to reserve quota for promotion. The respondent/government has the authority to appoint and promote on such terms and conditions as it may deem appropriate. The claim made in reply to ground (8) is amazing in that C&W Department in SSRC meeting held on 22-4-2022 has proposed for the grant of quota to B. Tech (Hons) reproduced in the preceding paras. The stance of respondents in reply to ground (5) and para 6 speaks high about the conduct, attitude and approach. UGC in 39<sup>th</sup> meeting held on 12-2-1998 observed that"

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“The degree of B. Tech(Hons) is not similar to B.E/B.Sc Engineering degree. Both the degrees of B.E/B.Sc Engineering and B. Tech (Hons) be considered as two distinct disciplines of knowledge in the field of Engineering and Technology and should be run parallel to each other. However, B. Tech (Hons) may be treated at par and compatible with B.E/B.Sc. Engineering degree holders as for as grade pay and promotion and other benefits are concerned! The Committee further noted that it was up to the employer to determine the type of qualification required for a particular post.”

Deep study of above referred para will reveal that respondent in reply to para 6 and ground (5) have deliberately omitted “ However, B. Tech (Hons) may be treated at par and compatible with B.E/B.Sc. Engineering degree holders as for as grade pay and promotion and other benefits are concerned!”

- (3) The submissions contain in ground (9), (10), (11), (12) and (13) refers to the accrued right of petitioner whereas reply and response thereof is evasive. The respondents have ignored the major factor of the matter that “Notification” has been issued by respondent No. 1 with unreasonable justification inasmuch as the petitioner has fundamental right to be promoted as BPS 18 post on the basis of his seniority among the B. Tech (Hnos). The petitioner has vested right to be promoted as BPS 18 officer in that he has held the post of Executive Engineer BPS 18 from 14-6-2017 but is illegally denied the right of formal promotion. No reason whatsoever has been shown to deny the right of the petitioner to hold post of BPS-18. A look at the “Notification” will reveal that grievance of the petitioner has been put at backburner by the respondents deceitfully in that no change has been made and the joint seniority list already maintained has been retained. Importantly Government of Sindh through

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Notification issued on 19-3-2014 has fixed 20% quota for B. Tech (Hons) and diploma holders for the promotion to BPS-18. Finally the apex Supreme court of Pakistan while dilating upon the matter in CP No 78-K of 2015 title "Moula Bakhsh "2018 SCMR 2098" Shaikh Versus Chief Minister Sindh" approved, assented and concurred 20% quota allocated for B. Tech (Hons) and Diploma Holders for promotion to BPS 18. The apex Supreme Court Moula Bakhsh case has held that it is the domain of the Government to decide whether a particular academic qualification of a civil servant/ employee is sufficient for promotion from one grade to another higher grade whereas it is the authority of the Pakistan Engineering Council to decide whether a particular academic qualification can be equated with another academic qualification but it has no power to say that the government servants/employees holding particular academic qualification cannot be promoted from a particular grade to a higher

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(4) The respondents in the joint parawise comments to grounds (14), (15), (16)

and (17) have not commented on the lawful submission made by the petitioner. Ambiguous, shifty, slippery and oblique reply has been offered establishing the fact that respondents have no defense to the lawful submissions contain in the writ petition. The petitioner has been denied his right to be promoted in the separate category of B. Tech (Hons) engineer in line with quota granted to other similarly placed B. Tech (Hons) Engineers. The petitioner being senior most in his own cadre has the right to be promoted accordingly pre-dated to get pensionery benefits. The refusal of the respondents is in clear derogation of the specific orders passed by apex Supreme Court of Pakistan in Moula Bkhsh case , therefore, the respondents have also exposed themselves to be proceeded under the provision of Article 204 of the

Constitution of Islamic Republic of Pakistan, 1973 read with section 3 and 5 of the Contempt of Court Ordinance, 2003. Great illegality has been committed with the petitioner and other B. Tech (Hons) engineers due to the personal malafide of the respondents. The apex Supreme Court of Pakistan in the similar circumstances has observed that "The objective of PEC is to regulate the working of professional engineers and consulting engineers and not to regulate the qualification or the working of the engineers in the Government or semi-Government departments. Further the definitions of the terms "professional engineer" and "professional engineering work" given in clauses (j) and (k) of section 2 of the Civil Servant Act, 1973 are to be read together therefore, as a corollary to the same, it must follow that the term "professional engineering work" as defined in clause (k) of section 2 ibid is to be performed by a professional engineer as defined in clause (j) thereof, which is evident from section 8 ibid, which defines the functions of the Pakistan Engineering Council. The discriminative attitude and conduct of the respondents in crystal than clear to deprive the petitioner from his lawful fundamental right to be promoted at the post of BPS 18. The refusal of the respondent by issuing "Notification" to fix the quota is in clear violation of Article 4, 14 and 25 of the Constitution. The refusal of the respondent ex-facie cannot be approved by any cannon of law, therefore, the entire exercise made by the respondents is to be declared null and void and not sustainable. Great injustice has been done with the petitioner for his no default and he has been constrained to knock the door of this august court invoking constitutional jurisdiction of this honourable court. The respondents have conceded that according to Notification dated 26-3-2018, ten percent quota by promotion on the basis of seniority-cum-fitness from amongst the Sub-Engineers having Degree of B. Tech (Hons) and have passed Departmental Professional Examination with 5 (five) years'

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service for promotion to BS-17 has already given to the incumbent at par with petitioner, therefore, denial of such treatment for promotion to BS-18 is illegal, unlawful and clear violation of the rules and policy of the provincial Government of Khyber Pakhtunkhwa. It is important to mention that recently the legality of Notification dated 24<sup>th</sup> August, 2021 notified by Irrigation Department fixing quota for B. Tech (Hons) has been approved and appeal has been rejected. The petitioner has been agitating for the grant of 20% quota since 15-8-2017 but ironically such matter is illegally and unlawfully lingering on by respondents whereas the petitioner has already retired on 27-8-2022 but no concrete decision has been made. The meetings of SSRC were either cancelled or postponed to deny the rights to the petitioner and others. Interestingly a look at column 2 of the notification dated 25-11-2022 will reveal that posts of both incumbents either registered with PEC or not have been included as Executive Engineer/Design Engineer/ Senior Engineer/ Research Officer/ Deputy Director Technical/ Senior Engineer (Survey/RMU) (BPS). The petitioner in one of the said post can be promoted as BS-

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(5) The submissions made in the ground (18), (19) (20 and (21) are true and correct and stance of respondents thereof is illusory. There can be no cavil and dispute that the right of petitioner being B. Tech (Hons) engineer has been protected by the apex Supreme court of Pakistan in that promotion of a senior official who otherwise full fill the criteria being fit has never been denied. The apex Supreme Court has ruled that there is different category and cadre of B. Sc. Engineers and B. Tech (Engineer. The respondents have overlooked such dictum and clear directions of the august Supreme Court. The ruling made by apex court in ‘ Moula

(15)

Bakhsh "2018 SCMR 2098" will reveal that apex Supreme Court of Pakistan has categorized B. Sc. Engineers and B. Tech (Hons) Engineers as separate cadre and category, but while issuing "Notification" such classification has been ignored without assigning any reason. It is established that disputed Notification dated 25-11-2022 has been issued beyond the recommendation and working paper prepared in the light of minutes of the meeting of the Committee constituted under the Chairmanship of Additional Secretary, P&D Department Khyber Pakhtunkhwa held on 22-4-2022. The said committee after deliberations, in para 6 of Working Paper recommended as under:-

5. In order to implement the court directions as well as High Level Committee recommendations, C&W Department suggest the following two proposals for placing before SSRC committee for deliberation and decision:

I Standing Service Rules committee (SSRC) is requested to consider the amendment in the existing Service Rules of C&W Department, 2010 for promotion of Assistant Engineers (BS-17) holding the B-Tech (Hnos) and Diploma Holders against non-professional posts in the department according to the judgment of Supreme Court of Pakistan and for the purpose a sub-committee be constituted to analyze and differentiate the existing posts in C&W Department in BS-18, 19 & 20 into purely professional and non professional posts and accordingly submit proposal for amendment in promotion rules of BS-18 in C&W Department.

OR

II. Standing Service Rules Committee (SSRC) is requested to consider amendment in the existing service Rules of C&W Department, 2010 for promotion of Assistant Engineers (BSI7) holding the B- Tech (Hons) and Diploma Holders according to their existing strength to BS-18 on the analogy of other like departments as recommended by the High level Committee headed by Additional chief secretary.

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It is, therefore, humbly prayed that above noted writ petition, it is therefore humbly prayed that this honourable may direct, declare, order and hold:-

- I. That the "Notification" No. SOE/C&WD/8-12/2022 dated issued on 25-11-2022 by the respondents is illegal, without lawful authority and against the fundamental rights of the petitioner, therefore required to be declared unlawful.
- II. That the petitioner being B. Tech (Hons) Engineer has the right to promoted in BPS 18 on the basis of separate independent 20% quota to fix by the respondents and refusal thereof is based on malafide, void ab-initio being based on discrimination.
- III. That the petitioner has been denied to grant 20% quota through "Notification" dated 25-11-2022 being B. Tech (Hnos) Engineer illegally, unlawfully, which cannot sustain and liable to be set aside.
- IV. That B. Tech (Engineers) have been granted and fixed separate quota for B. Tech (Hons) Engineers by Khyber Pakhtunkhwa Energy and Power department, Local Government, Election and Rural Development Department, Irrigation Department and Public Health Engineering (PHE) Department and denial by Communication and Works Department, Khyber Pakhtunkhwa for promotion to BPS 18 is based on discrimination, void ab initio.
- V. That the petitioner is to be promoted to the post of BPS 18 with effect from 15-8-2017, be paid arrears and pensionary benefits.

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VI. Any other appropriate remedy may also be granted.

Petitioner,

through

Abdul Rauf Rohaila,

Senior Advocate Supreme Court.

Affidavit

I, Shaukatullah Shah son of Yaqoob Shah, Former employee of Communication and Works Department, Peshawar, Peshawar do hereby declare and affirm on oath that the contents of above noted writ petition are true and correct. Nothing contain therein is false.

Deponent

*[Signature]*  
05/10/2023

Shaukatullah Shah.

CNIC 11201-0376771-9

Cell # 0333-9125822

Identified by

Advocate

49788

Certified that the above was verified on solemnly affirmation before me in office, this 06 day of Oct 2023 s/o. Syed Yaqoob Shah, Shaukatullah Peshawar who was identified by self.

Who is personally known to me:

*[Signature]*  
Oath Commissioner  
Peshawar High Court, Peshawar  
06/10/2023

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