

**IMMEDIATE
CONFIDENTIAL**



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

NO. SO(PSB)ED/1-8/2022/P-847
Dated Peshawar the 01/11/2023

To

✓ The Secretary to Govt. of Khyber Pakhtunkhwa,
Health Department.

PS to Secretary Health

Letter No. 754(1)

Dated 21/11/23

**SUBJECT: - MINUTES OF THE MEETING OF PROVINCIAL SELECTION BOARD
HELD ON 07.09.2023.**

**IMPLEMENTATION OF JUDGEMENT DATED 02.04.2021 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL IN SERVICE APPEAL NO.
504/18 TITLED MUHAMMAD JAMIL VERSUS GOVERNMENT OF
KHYBER PAKHTUNKHWA HEALTH DEPARTMENT (COURT CASE)**

Dear Sir,

I am directed to refer to Health letter No. SOH-VI/HD/Promotion/1-01/Muhammad Jamil/Ex-AD-DGHS dated 19.06.2023 on the subject and to forward herewith an extract of Agenda Item No (01) of the minutes/recommendations of the meeting of Provincial Selection Board held on 07.09.2023 as well as copy of approved summary wherein the Chief Minister, Khyber Pakhtunkhwa being competent authority in terms of Rule 4 (1) (a) of the Khyber Pakhtunkhwa (Appointment, Promotion & Transfer) Rules, 1989 has approved the recommendations of the PSB, for further necessary action.

Yours faithfully,

[Signature]
SECTION OFFICER (PSB)

1/11/23

Encl: As Above.

SSH (E&A)

AS - ESTT

AS - MTI

DS - Admin

DS - Legal

DS - ESTT

[Signature]
7/11
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PSB meeting 07.09.2023

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ITEM NO. (01)

HEALTH DEPARTMENT

(Meeting of PSB held on 07.09.2023)

SUBJECT PROFORMA PROMOTION OF MUHAMMAD JAMIL, EX-ASSISTANT DIRECTOR (ADMINISTRATION) (BS-17) TO THE POST OF DEPUTY DIRECTOR (MINISTERIAL) (BS-18) IN PURSUANCE OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL JUDGMENT DATED 02.04.2021 IN SERVICE APPEAL NO. 504/2018 (COURT CASE).

Meeting of the PSB was held on 07.09.2023 at 11:00 AM under the Chairmanship of Chief Secretary, Khyber Pakhtunkhwa. Apart from the regular members of PSB, Secretary Law also attended the meeting on special invitation. The Agenda before the PSB was to consider the proforma promotion of Muhammad Jamil, Assistant Director (Administration) BS-17 (retired on 30.08.2018).

2. Secretary, Health apprised the Board that the present case is being placed before the Board in pursuance of Execution Petition No. 332/2021 filed in the Service Tribunal in Service Appeal No. 504/2018, wherein the Court directed the Respondent Department to come up for final and conclusive implementation report.

3. Brief history of the case is that promotion case of Muhammad Jamil, Ex-Assistant Director (Administration BS-17) to the post of Deputy Director (Ministerial BS-18) was placed before the PSB in its meeting held on 18.02.2016. The Board considered the case against one vacant position of BS-18 with the following recommendation:

"The Board observed that the panelist officer has earned 88.80 marks out of 100 which shows that he is competent and efficient officer working in the office of Director General Health Services for the last 40 years. The Board further observed that there were many issues/irregularities in the office of Director General Health Services which remained unattended since long and the Secretary Health was compelled to take over the record by himself for further necessary action. If he is so efficient officer then why he did not redress all these issue well in time.

The Board directed Health department to resubmit the case after doing necessary home work".

4. In the meanwhile, the petitioner Muhammad Jamil retired from service w.e.f 30.08.2018 on attaining the age of superannuation. Feeling aggrieved, he filed Service Appeal No.

Attended
Section Officer
Govt. of Khyber Pakhtunkhwa
Establishment Department

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PSB meeting 07.09.2023

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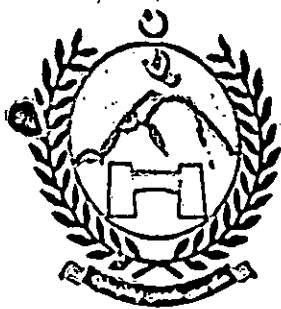
504/2018 before Khyber Pakhtunkhwa Service Tribunal, Peshawar and on 02.04.2021, and the Service Tribunal passed the following judgment:

"It is crystal clear that it was for Secretary Health to redress all the issues/irregularities in the office of Director General Health Services. As per record, his case was never resubmitted till the time of his retirement on 17th July, 2017. Item No. 19 of meeting of PSB held on 18.02.2016 was never communicated to the appellant well within time which is evident from the record and nothing was produced by the respondents in order to show that the same was communicated before retirement of the appellant with the result that he filed departmental appeal on 27.12.2017 after getting the mentioned minutes in the shape of item No. 19 of the PSB. Appellant was punished for no fault of his own. He had no adverse entry in his ACR standing against his name at that period of time. Coming to the question of limitation, undoubtedly, Limitation Act is penal in nature and rights accrued cannot be taken away unless sufficient cause is shown. However, technicality of law should not stand in the way of a person who has been singled out rather persecuted without knowing as to what crime or sin he has committed. We are also fortified in our view by the judgment of the Apex Court reported in P.L.D 1992 S.C 825 that in matters of promotion, pay and other emoluments cause of action is recurring, limitation does not foreclose the right. Resultantly, we accept this appeal as prayed for".

Attested
Section Officer
Govt. of Khyber Pakhtunkhwa
Establishment Department

5. The case was referred to the Scrutiny Committee of Law Department and the Committee declared it unfit case for filing of CPLA in the Supreme Court of Pakistan being time barred. The appellant has filed an Execution Petition, wherein the Court has directed the respondents to come up for final and conclusive implementation report.

6. After threadbare discussion, the Board observed that no junior officer was promoted ignoring the appellant. Moreover, promotion is not a right but suitability of an officer for the higher post against which he considered for promotion. The Board further observed that the administrative department shall fix responsibility upon the dealing hands who failed to process CPLA in time. It was decided with consensus that Health Department shall file an Objection Petition in the Tribunal and pursue the case rigorously.



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

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SUMMARY FOR CHIEF MINISTER KHYBER PAKHTUNKHWA

Subject: - APPROVAL OF RECOMMENDATIONS OF PROVINCIAL SELECTION BOARD ON PROMOTIONS.

A summary on the subject is submitted for approval of the Hon'ble Chief Minister, Khyber Pakhtunkhwa.

(AKHTAR SAEED TURK)
Secretary, Establishment
24 October, 2023

Diary No. 1234
Date 24-10-2023

Chief Secretary, Khyber Pakhtunkhwa

CHIEF SECRETARY
Govt. of Khyber Pakhtunkhwa
24/10/2023

Principal Secretary To Chief Minister, Khyber Pakhtunkhwa

Diary No. 7767
Date: 24-10-23

31/10/23
Principal Secretary
to Chief Minister
Khyber Pakhtunkhwa

Secretary Establishment - 31/10/2023

CHIEF SECRETARY
Govt. of Khyber Pakhtunkhwa

(AKERS)
SOLPSB ✓

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