


FORM OF ORDER SHEET

Court of _____

Appeal No. 2437 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/11/2023	<p>The appeal of Mr. Abdul Saboor Khan resubmitted today by Mr. Taimur Ali Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshai is given to the counsel for the appellant.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

The appeal of Mr. Abdul Saboor Khan received today i.e. on 16.11.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Appeal has not been flagged/marked with annexures marks.
- 2- Annexures of the appeal are unattested.
- 3- Affidavit is not attested by the Oath Commissioner.
- 4- Annexures of the appeal are not in sequence.
- 5- Copies of Judgments mentioned in para-5 of the memo of appeal are not attached with the appeal be placed on it.
- 6- Copies notification 30.4.2018 & 31.10.2022 mentioned in the memo of appeal are not attached with the appeal be placed on it.
- 7- Copy of departmental appeal is not attached with the appeal.
- 8- All the annexures of the appeal are illegible which may be replaced by legible/better one.
- 9- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

No. 3614 /S.T,

Dt. 17-11 /2023.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv.
High Court Peshawar

Respected Sir,

1- Removed

2- Removed

3- Removed

4- Removed

5- Judgments all attached at page-20 and page-34 respectively.

6- Notification 30/4/2018 is at page-38 and notification 30/10/2022 is at page-30

7- departmental appeal is at page-39

8- Removed

9- Removed

Resubmitted after compliance



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 2437/2023

Abdul Saboor Khan

VS

C&W Department

INDEX

S.No.	Documents	Annexure	P. No.
1	Memo of Appeal	-----	01-04
2	Affidavit	-----	05
3	Copy of seniority list	A	06-16
	Copy of rules	B	17-19
4	Copies of judgments dated 02.03.2016 and judgment dated 13.02.2017	C&D	20-37
5	Copy of notification dated 30.04.2018	E	38
6	Copy of departmental appeal	F	39
7	Copy of notification dated 31.10.2022	G	40
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THROUGH:

APPELLANT


TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)

Cell# 0333-9390916

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

SERVICE APPEAL NO. 2437/2023

Khyber Pakhtunkhwa
Service Tribunal

Case No. 9167

Date 16-11-2023

Abdul Saboor Khan, Sub Divisional Officer,
C&W High Way Division Swabi.

(APPELLANT)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Communication & Works Department, Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. The Chief Engineer (Centre), Communication & Works, Civil Secretariat Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS OF NOT GRANTING SENIOR SCALE BS-16 UNDER 25% QUOTA TO THE APPELLANT W.E.F 04.09.2003 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD OF NINETY DAYS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY KINDLY BE DIRECTED TO GRANT SENIOR SCALE BS-16 UNDER 25% QUOTA TO THE APPELLANT W.E.F 04.09.2003 WITH ALL BACK BENEFITS AS ALREADY GRANTED BY THE RESPONDENT DEPARTMENT TO COLLEAGUES AND JUNIORS TO THE APPELLANT W.E.F 04.09.2003 ON THE BASIS OF JUDGMENT DATED 02.03.2016 OF THE LARGER BENCH OF THIS HONORABLE TRIBUNAL UNDER THE RULE OF CONSISTENCY. ANY OTHER

16/11/23

(2)

**REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT
THAT MAY ALSO BE GRANTED IN FAVOUR OF
APPELLANT.**

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant joined the respondent department as Sub Engineer in the year 1988 and has passed B Grade Departmental Exam in 1996 and departmental professional examination in the year 2006. Thus, the appellant has more than 35 years' service at his credit with good record throughout. All the dates are mentioned in the departmental appeal of the appellant copy of which is attached as Annexure-F.
2. That the appellant since his appointment is performing his duty with devotion and honesty, whatsoever, assigned to him and no complaint has been filed against the appellant by his superiors regarding his performance.
3. That respondent department circulate the final seniority list of sub engineer in the year 2013, wherein the appellant name was at serial No.241. **(Copy of seniority list is attached as Annexure-A)**
4. That according to Communication & Works Department Recruitment and appointment Rules 1979, 25% of the total number of posts of diploma holder Sub-Engineer shall from the cadre of Senior Scale Sub Engineers and shall be filled by selection on merit with due regard to seniority from amongst Sub Engineer of the department who have passed the departmental Examination and have at least ten years' service as such. **(Copy of rules is attached as Annexure-B)**
5. That in spite of the clear rules, Senior Scale (BS-16) were denied to the Sub Engineer due to which they were approach to this Honorable Service Tribunal in various service appeals to grant them Senior Scale (BS-16). The Honorable Service Tribunal allowed their service appeals on 02.03.2016 which was upheld by the Supreme Court of Pakistan on 13.02.2017. **(Copies of judgments dated 02.03.2016 and judgment dated 13.02.2017 are attached as Annexure-C&D)**
6. That in pursuance of Khyber Pakhtunkhwa Service Tribunal judgment dated 02.03.2016 upheld by the Supreme Court of Pakistan on 13.02.2017, Senior Scale BS-16 were granted to 55 Sub Engineers w.e.f 04.09.2003 vide notification dated 30.04.2018 in which many Sub Engineers were juniors to the appellant. **(Copy of notification dated 30.04.2018 is attached as Annexure-E)**

7. That as the respondent department granted Senior Scale (BS-16) w.e.f 04.09.2003 to many colleagues and juniors to the appellant and the appellant being similarly placed person also entitle Senior Scale (BS-16) w.e.f 04.09.2003, therefore, he filed departmental appeal on 07.08.2023 for grant of Senior Scale (BS-16) w.e.f 04.09.2003 along with all back benefits which was not respondent within the statutory period of ninety days. (Copy of departmental appeal is attached as Annexure-F)
8. That appellant has no other remedy except to file the instant appeal in this Honorable Tribunal for redressal of his grievance on the following grounds amongst others.

GROUND:

- A) That not granting Senior Scale (BS-16) w.e.f 04.09.2003 to the appellant as per rules despite of his eligibility and not taking action on the departmental appeal of the appellant within the statutory period of ninety days are against the law, rules facts, norms of justice and material on record, therefore, not tenable.
- B) That the appellant is the senior most Sub Engineer and also having the requisite length of service with B-Grade Departmental Exam, but despite of that the appellant has been kept deprived from his due rights which is not permissible in the eyes of law and norms of justice.
- C) That according to rule of the department, 25% of the total number of posts of diploma holder Sub-Engineer shall from the cadre of Senior Scale Sub Engineers and shall be filled by selection on merit with due regard to seniority from amongst Sub Engineer of the department who have passed the departmental Examination and have at least ten years' service as such, but despite that many Sub Engineer who were juniors to the appellant were granted Senior Scale (BS-16) w.e.f 04.09.2003, which is clear violation of the rule and as such the appellant is also entitle to senior scale w.e.f 04.09.2003 with all back benefits.
- D) That the Honorable Tribunal clearly mentioned in para 30 of the judgment dated 02.03.2016 that *though adequate number of Sub Engineer seeking Senior Scale are present before us but there is likelihood that certain civil servants might not have approached this Tribunal to litigate for their claims. We, therefore, direct that the benefits of this judgments be extended to those sub engineer who fulfilled the criteria of becoming Senior Scale at the relevant time*, but despite the clear direction of this Honorable Tribunal and eligibility of the appellant, he has not granted Senior Scale (BS-16) w.e.f 04.09.2003, which is clear violation of the judgment dated 02.03.2016 of this Honorable Tribunal.

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- E) That recently 17 Sub Engineers has granted Senior Scale (BS-16) vide notification dated 31.10.2022, but the same benefit was not extended to the appellant despite of his eligibility, which is against the norms of justice and fair play. (Copy of notification dated 31.10.2022 is attached as Annexure-G)
- F) That the appellant is also discriminated as many Sub Engineers who are juniors to the appellant has granted senior scale (BS-16) w.e.f 04.09.2003, which is clear violation of the Article-15 of the Constitution of Pakistan.
- G) That the appellant has not been treated in accordance with rules and has been deprived from legal right of senior scale (BS-16) w.e.f 04.09.2003 along with back benefits by the respondents which shows the arbitrary manners of the respondents.
- H) That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that on acceptance of this appeal, the respondents may kindly be directed to grant Senior Scale (BS-16) under 25% quota to the appellant w.e.f 04.09.2003 with all back benefits as already granted by the respondent department to colleagues and juniors to the appellant w.e.f 04.09.2003 on the basis of judgment dated 02.03.2016 of the Larger Bench of this Honorable Tribunal under the rule of consistency. Any other remedy, which this Honorable Tribunal deems fit that may also be granted in favour of appellant.

THROUGH:

Abdul Saboor Khan
APPELLANT
Abdul Saboor Khan

Taimur Ali Khan
TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)
PESHAWAR

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____ /2023

Abdul Saboor Khan

VS

C&W Department

AFFIDAVIT

I, Abdul Saboor Khan, Sub Divisional Officer, C&W High Way Division Swabi, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honorable Tribunal.


DEPONENT

OL: 3

NOTIFICATION

In pursuance to Section 8 (1) and (5) of the NWFP, Civil Servants Act 1973, read with Notification No. SOE/W&S/8-12/2007 dated 01/2007 (for S.No.4(d), the Seniority of Sub Engineer (BPS-11/16) (excluding Direct/Inservice Graduates) of C&W Wing of Works & Services Department as stood on 15/08/2009 is hereby notified as under:-

Name of Official	Father's Name	Home District	Qualification	DOB	Date of Appointment to PWD	Date of Appointment to Class	Date of Grant of BS-16	Year of Passing prof. exam	Remarks
Muhammad Shah Bangash	Hassan Shah	Hangu	DAE(C)	01/09/1953	29/11/1976	29/11/1976	20/11/1989	Not cleared	
Muhammad Tariq-I		Peshawar	DAE(M)	17/03/1958	03/10/1979	03/10/1979	20/11/1989	1996	
Muhammad Ikram Qureshi	Muhammad Taj Qureshi	DI.Khan	DAE(M)	20/09/1953	09/10/1979	09/10/1979	20/11/1989	1993	
Asad Ali Bangash	Israr Ali Bangash	Kohat	DAE(M)/ B.Tech(M)	05/06/1954	13/10/1979	13/10/1979	20/11/1989	1993	
Aziz Muhammad	Naik Muhammad	Malakand	DAE(C)	01/02/1950	02/12/1979	02/12/1979	01/12/1989	1993	
Mohsin Shah	Hussain Shah	Malakand	DAE(C)	23/06/1951	24/01/1974	24/01/1974	17/11/1991	1996	
Zarhaft Khan	Mada Khan	NWA	DAE(C)	15/09/1951	14/02/1974	14/02/1974	17/11/1991	1996	
S. Hassan Shah	S. Nasir-ud-din Shah	Kurram	DAE(C)	10/04/1953	13/03/1974	13/03/1974	17/11/1991	1996	
Nisar Muhammad		Malakand	DAE(C)	25/02/1952	18/07/1974	18/07/1974	17/11/1991	1996	
Sher Haider Khattak		Nowshera	DAE(C)	13/05/1952	30/09/1975	30/09/1975	17/11/1991	1993	
S. Riazul Hassan Shah		Kohat	BA/DAE(C)	26/08/1949	11/11/1976	11/11/1976	17/11/1991	1993	
Khizar Hayat	Muhammad Hayat	Swabi	DAE(C)	15/10/1956	20/05/1977	20/05/1977	17/11/1991	1993	
Yousaf Muhammad	Yousaf Muhammad	Swabi	DAE(C)	15/10/1956	20/05/1977	20/05/1977	17/11/1991	1993	

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Name of Official	Father's Name	Home District	Qualification	DOB	Date of Appointment to PWD	Date of Appointment to Class	Date of Grant of BS-16	Year of Passing prof. exam	Remarks
Rehmanullah		Swabi	DAE(C)	27/09/1956	25/07/1977	25/07/1977	17/11/1991	1993	
Muhammad Zahid	Muhammad Aslam	Mardan	DAE(C)	01/08/1957	16/10/1978	16/10/1978	17/11/1991	1993	
Munir Ahmad	Nisar Muhammad	Peshawar	DAE(C)	15/06/1958	16/10/1978	16/10/1978	17/11/1991	1996	
Faridullah Khan	Subhanullah Khan	Swabi	DAE(C)	25/02/1953	16/10/1978	16/10/1978	17/11/1991	1993	
Sanaullah Tajazai	Gulo Khan	Lakki	DAE(C)	06/01/1951	21/10/1978	21/10/1978	17/11/1991	1996	
Muhammad Javed Iqbal	Ahmad Hussain	DI. Khan	DAE(C)	01/03/1954	21/10/1978	21/10/1978	17/11/1991	1996	
Muhammad Naeem-II		Kohat	DAE(C)	17/01/1956	23/10/1978	23/10/1978	17/11/1991	1993	
Amir Akram		Swabi	DAE(C)	15/08/1953	24/10/1978	24/10/1978	17/11/1991	1993	
Shahzad Gul-II		Peshawar	DAE(C)	01/05/1959	24/10/1978	24/10/1978	17/11/1991	1996	
Muhammad Rafiq-I		Charsadda	DAE(C)	03/01/1952	25/10/1978	25/10/1978	17/11/1991	2006	
Ikramullah-I	Hussainullah Khan	Charsadda	DAE(C)	05/05/1956	25/10/1978	25/10/1978	17/11/1991	1993	
Musawar Mehmood		Peshawar	DAE(C)	23/03/1957	25/10/1978	25/10/1978	17/11/1991	1993	
Chaman Khan	Khan-e-Azam	Mohmand	DAE(C)	25/08/1952	26/10/1978	26/10/1978	17/11/1991	1996	
Mazhar Ali	Said Ahmad	Peshawar	DAE(C)	01/06/1957	26/10/1978	26/10/1978	17/11/1991	1996	
Nasimuddin	Dr. H. Jasim-uddin	Mardan	DAE(C)	24/04/1955	21/12/1978	21/12/1978	17/11/1991	1993	
Iqbal Khan	Shah Behram	Lakki	DAE(C)/ B.Tech(C)	18/02/1957	17/01/1979	17/01/1979	17/11/1991	1993	

S	Name of Official	Father's Name	Home District	Qualification	DOB	Date of Appointment to PWD	Date of Appointment to Class	Date of Grant of BS-16	Year of Passing prof. exam	Remarks
173	Muhammad Yaqoob-I	Malik Bad Shah	NWA	DAE(C)	19/03/1962	13/03/1988	13/03/1988	B-11	-	
174	Shahzad Hassan	Sher Hassan Khan	Peshawar	DAE(C)	05/04/1962	13/03/1988	13/03/1988	B-11	-	
175	Muhammad Javed-I	Haji Muhammad Ramzan	DI.Khan	DAE(M)	02/09/1962	13/03/1988	13/03/1988	B-11	2008	
176	Nigarul Haq	Noorul Haq	Peshawar	DAE(Radio Elec)/BA	01/02/1963	13/03/1988	13/03/1988	B-11	2006	
177	Sameeullah	Habibullah	Kohat	DAE(C)	01/06/1963	13/03/1988	13/03/1988	B-11	-	
178	Abdul Waheed	Abdur Rashid	DI.Khan	DAE(C)	30/08/1963	13/03/1988	13/03/1988	B-11	-	
179	Muhammad Sajjad	Abdul Hakim	Peshawar	DAE(C)	21/04/1966	13/03/1988	13/03/1988	B-11	2006	
180	Sabit Khan	Rustam Khan	Swabi	DAE(C)	18/12/1950	14/03/1988	14/03/1988	B-11	2006	
181	Hafeez-Ur-Rehman	Habibur Rehman	Peshawar	DAE(C)	01/03/1959	14/03/1988	14/03/1988	B-11	2006	
182	Habibullah	Muhammad Abdullah	Malakand	DAE(C)	23/04/1959	14/03/1988	14/03/1988	B-11	-	
183	Muhammad Nasim-II	Faqir Hussain	Mansehra	DAE(C)	01/12/1960	14/03/1988	14/03/1988	B-11	2008	
184	Ghulam Rahim	Ghulam Rashid	Malakand	DAE(C)	20/04/1961	14/03/1988	14/03/1988	B-11	-	
185	Syed Nawazish Ali Shah	Syed Miskeen Shah	Mansehra	DAE(E)	06/03/1962	14/03/1988	14/03/1988	B-11	2006	
186	Shaukatullah Shah	Yaqoob Shah	Lakki	DAE(C)	28/08/1962	14/03/1988	14/03/1988	B-11	2006	
187	Syed Tariq Mehmood	Syed Wazir Hussain Shah	Abbottabad	DAE(C)	01/01/1963	14/03/1988	14/03/1988	B-11	2008	
188	Sadiqullah	Haji Inayat Khan						B-11	-	

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S	Name of Official	Father's Name	Home District	Qualification	DOB	Date of Appointment to PWD	Date of Appointment to Class	Date of Grant of BS-16	Year of Passing prof. exam	Remarks
205	Muneeb Khan	Jaffar Khan	Mohmand	DAE(C)	16/04/1964	15/03/1988	15/03/1988	B-11	--	
206	Mumtaz Ahmed Malik	Malik Ali Asghar	Haripur	DAE(C)	06/06/1966	15/03/1988	15/03/1988	B-11	--	
	Muhamamad Saeed-II	Muhammad Yousaf	Mardan	DAE(C)	03/05/1960	16/03/1988	16/03/1988	B-11	2006	
208	Muhammad Naeem Jan	Mohabat Khan	Charsadda	DAE(E)	15/04/1961	16/03/1988	16/03/1988	B-11	--	
209	Alamzeb-I	Rehmanullah Khan	Swabi	DAE(C)	01/03/1963	16/03/1988	16/03/1988	B-11	--	
210	Syed Azmat Ali Shah	Wahid Ali Shah	Mansehra	DAE(C)	15/12/1963	16/03/1988	16/03/1988	B-11	--	
211	Ikramullah-III	Haji Shalozan	NWA	DAE(C)	01/01/1964	16/03/1988	16/03/1988	B-11	2008	
212	Mashal Khan	Bagu Khan	Lakki	DAE(C)	02/02/1964	16/03/1988	16/03/1988	B-11	--	
213	Muhammad Shaukat	Abdur Rehman	Mansehra	DAE(E)	12/02/1964	16/03/1988	16/03/1988	B-11	2008	
214	Abdul Saboor Khan	Abdul Nazir Khan	Swabi	DAE(E)	16/07/1964	16/03/1988	16/03/1988	B-11	--	
	Ali Rehman	Abdul Qader	Malakand	DAE(C)	12/11/1964	16/03/1988	16/03/1988	B-11	Compact in A/Cs	
216	Rehman Saeed	Noor Baig	Karak	DAE(M)	15/01/1965	16/03/1988	16/03/1988	B-11	--	
217	Muhammad Ajmal	Ghulam Mustafa Khan	Mansehra	DAE(C)	05/03/1965	16/03/1988	16/03/1988	B-11	Compact in A/Cs	
218	Muhammad Zaka Khan	Muhammad Younis Khan	Abbottabad	DAE(C)	19/04/1965	16/03/1988	16/03/1988	B-11	2008	
219	Muhammad Aslam Khan	Mohammad Ismail	DI.Khan	DAE(C)	06/11/1952	20/03/1980	17/03/1988	B-11	--	
220	Muhammad Fahim Alam	Inayat Khan								

ALP

S	Name of Official	Father's Name	Home District	Qualification	DOB	Date of Appointment to PWD	Date of Appointment to Class	Date of Grant of BS-16	Year of Passing prof. exam	Remarks
237	Zahoor Ahmed	Dawa Khan	Swat	DAE(C)	23/03/1961	19/03/1988	19/03/1988	B-11	-	
238	Rafiq Ahmed	Mian Said Wahid	Swat	DAE(C)	27/11/1961	19/03/1988	19/03/1988	B-11	-	
239	Muhammad Ishaq	Hayat Khan	Lakki	DAE(E)	17/01/1962	19/03/1988	19/03/1988	B-11	-	
240	Sher Ali Khan	Amir Khan	Malakand	DAE(C)	31/12/1962	19/03/1988	19/03/1988	B-11	-	
241	Hamidullah Khan-II	Muhammad Jan	Lakki	DAE(C)	01/01/1963	19/03/1988	19/03/1988	B-11	-	
242	Niamat Gul-II	Ahmad Gul	Malakand	DAE(C)	12/01/1963	19/03/1988	19/03/1988	B-11	-	
243	Muhammad Iqbal-IV	Muhammad Afzal	Battagram	DAE(C)	20/03/1964	19/03/1988	19/03/1988	B-11	2008	
244	Tariq Muhammad	Gul Muhammad Khan	Swabi	DAE(C)	15/04/1964	19/03/1988	19/03/1988	B-11	-	
245	Abdul Farooq	Muhammad Ramzan Khan	DI.Khan	DAE(C)	24/04/1964	19/03/1988	19/03/1988	B-11	-	
246	Fida Muhammad	Taj Din	Mansehra	DAE(C)	10/12/1964	19/03/1988	19/03/1988	B-11	1996	
247	Muhammad Niaz	Abdur Rahman	Abbottabad	DAE(C)	24/03/1965	19/03/1988	19/03/1988	B-11	2006	
248	Noor Zeb	Mir Sadad Khan	Bannu	DAE(E)	10/04/1965	19/03/1988	19/03/1988	B-11	-	
249	Ajmal Anwar	Muhammad Anwar	Mardan	B.Tech	06/09/1966	19/03/1988	19/03/1988	B-11	2006	
250	Muhammad Abdul Khair	Khan Sher	Mohmand	DAE(C)	07/10/1966	19/03/1988	19/03/1988	B-11	2006	
251	Mushtaq Ahmed-II	Muzaffar Khan	DI.Khan	DAE(E)	20/05/1956	20/03/1988	20/03/1988	B-11	-	
252	Ajmal Khan-I	Muhammad Hassan Khan	DI.Khan	DAE(E)	20/05/1956	20/03/1988	20/03/1988	B-11	2006	

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S	Name of Official	Father's Name	Home District	Qualification	DOB	Date of Appointment to PWD	Date of Appointment to Class	Date of Grant of BS-16	Year of Passing prof. exam	Remarks
253	Pir Aftab Ali Shah	Muhammad Ishaq Shah	SWA	DAE(C)	01/04/1961	20/03/1988	20/03/1988	B-11	2008	
254	Muhammad Yaqoob-II	Haji Sher Zaman Khan	DI.Khan	DAE(C)	02/02/1963	20/03/1988	20/03/1988	B-11	-	
	Intiaz Ali Khan	Farmanullah	Nowshera	DAE(C)/B.Tech(C)	10/03/1963	20/03/1988	20/03/1988	B-11	-	
256	Hizbullahi Khan	Nasrullah Khan	DI.Khan	DAE(C)	16/03/1963	20/03/1988	20/03/1988	B-11	2008	
257	Asmatullah Khan-II	Hamidullah Khan	Tank	DAE(C)	23/03/1964	20/03/1988	20/03/1988	B-11	2006	
258	Salim Khan-III	Multan Khan	Charsadda	DAE(C)	03/09/1964	20/03/1988	20/03/1988	B-11	-	
259	Luqman Tariq	Kahni Gul	FR Bannu	DAE(C)	24/05/1967	20/03/1988	20/03/1988	B-11	2008	
260	Inayat-ur-Rehman	Muhammad Ismail	Dir Lower	DAE(C)	01/02/1959	22/03/1988	22/03/1988	B-11	2008	
261	Muhammad Saeed Kamal	Muhammad Liaq Khan	Mansehra	DAE(C)	24/04/1960	22/03/1988	22/03/1988	B-11	-	
262	Hidayatullah-II	Amanullah Khan	Tank	DAE(M)	20/03/1963	22/03/1988	22/03/1988	B-11	-	
	Syed Ali Raza Gillani	M. Ahmad Gillani	Peshawar	DAE(E)	01/10/1966	22/03/1988	22/03/1988	B-11	2006	
264	Ijaz Ahmad	Haji Ali Ahmad	Charsadda	DAE(C)	20/12/1961	24/03/1988	24/03/1988	B-11	2008	
265	Muhammad Iqbal-V	Awal Khan	Lakki	DAE(C)	22/01/1964	24/03/1988	24/03/1988	B-11	Compact in A/Cs	
266	Syed Ashiq Hussain	S. Shah Abas	Kurram	DAE(C)	03/04/1962	26/03/1988	26/03/1988	B-11	-	
267	Syed Ibrar Hussain Shah	Iqbal Hussain Shah	Haripur	DAE(C)	01/02/1965	26/03/1988	26/03/1988	B-11	-	
268	Nasir Mehmood Siddiqui	Ghulam Rabbani	Peshawar	DAE(C)				B-11	-	

S	Name of Official	Father's Name	Home District	Qualification	DOB	Date of Appointment to PWD	Date of Appointment to Class	Date of Grant of BS-16	Year of Passing prof. exam	Remarks
269	Faisal Saeed	Muhammad Aslam	Mardan	DAE(C)/MA /B.Tech(C)	02/11/1962	28/03/1988	28/03/1988	B-11	2008	
270	Sardar Naeem Ahmad	Gulzar Ahmad	Abbottabad	DAE(C)	11/11/1958	30/03/1988	30/03/1988	B-11	2008	
	Shah Room Badshah	Haji Sher Ahmad	Malakand	DAE(C)	15/06/1964	30/03/1988	30/03/1988	B-11	2008	
272	Sardar Bahadar	Khan Bahadar	Peshawar	DAE(C)	02/09/1960	16/05/1989	16/05/1989	B-11	--	
273	Muhammad Kamal	Hazrat Jamal	Mardan		03/04/1962	13/01/1988	13/01/1988	B-11	--	
274	Saidul Ibrar	Saeedullah	Charsadda	DAE(C)	18/11/1960	10/08/1982	07/04/1990	B-11	2006	Seniority fixed from the date of acq: Diploma and as per inter-s-seniority
275	Azmat Ellahi Malik	Manzoor Elahi Malik	Peshawar	DAE(C)	03/10/1957	17/10/1982	07/04/1990	B-11	--	Seniority fixed from the date of acq: Diploma and as per inter-s-seniority
276	Syed Sardar Shah	Sabirin Shah	Kohat	DAE(C)	05/01/1957	17/04/1982	01/04/1990	B-11	2006	Seniority fixed from the date of acq: Diploma and as per inter-s-seniority
277	Abdur Rauf Babar	Muhammad Ashoor Babar	Nowshera	Matric	29/01/1956	24/02/1977	31/05/1990	B-11	--	Seniority fixed from the date of acq: Diploma and as per inter-s-seniority
278	Muhammad Tariq-III	Ghulam Sadiq	DI.Khan	DAE(C)	14/08/1966	07/12/1990	07/12/1990	B-11	--	Seniority fixed as per merit order assigned by the NWFP PSC
	Mudasar Shah	Musharaf Khan	Charsadda	DAE(C)	04/04/1965	22/12/1990	22/12/1990	B-11	2008	Seniority fixed as per merit order assigned by the NWFP PSC
280	Fayyaz Gul-II	Qadar Gul	Mardan	DAE(C)	11/02/1967	23/12/1990	23/12/1990	B-11	Compact in A/Cs	Seniority fixed as per merit order assigned by the NWFP PSC
281	Alam Zeb-II	Mehar Muhammad	Mardan	DAE(C)	19/09/1963	12/12/1990	12/12/1990	B-11	2008	Seniority fixed as per merit order assigned by the NWFP PSC
282	Muhammad Tahir *	Karim Khan	Nowshera	B.A/DAE(C)	03/03/1968	20/12/1990	20/12/1990	B-11	2008	Seniority fixed as per merit order assigned by the NWFP PSC
283	Sareer-ud-Din	Wahabudin	Nowshera	DAE(C)	05/02/1963	29/12/1990	29/12/1990	B-11	2008	Seniority fixed as per merit order assigned by the NWFP PSC
284	Hayat Ullah Khan	Muhammad Khan	Nowshera	DAE(C)				B-11	2008	Seniority fixed as per merit order assigned by the NWFP PSC

Rank of Official	Father's Name	Home District	Qualification	DOB	Date of Appointment to PWD	Date of Appointment to Class	Date of Grant of BS-16	Year of Passing prof. exam	Remarks
Hussain	Jawad Hussain	Kohat	DAE(C)	10/04/1974	01/01/1995	01/10/2006	B-11	—	Service w.e.f 01/01/1995 to 30/09/2006 as Road Inspector
Khan	Saadullah Khan	Kohat	DAE(C)	20/10/1974	03/07/1995	01/10/2006	B-11	—	Service w.e.f 03/07/1995 to 30/09/2006 as Road Inspector
Muhammad	Abdul Haleem	Kurram	DAE(C)	14/01/1969	25/10/1995	01/10/2006	B-11	—	Service w.e.f 25/10/1995 to 30/09/2006 as Road Inspector
Hussain	Gul Baz Khan	Kurram	DAE(C)	22/04/1969	26/10/1995	01/10/2006	B-11	—	Service w.e.f 26/10/1995 to 30/09/2006 as Road Inspector
	Khaliq Dad	Kurram	DAE(C)	14/04/1969	05/11/1995	01/10/2006	B-11	—	Service w.e.f 05/11/1995 to 30/09/2006 as Road Inspector
Nazim	Kamal Khan	Kohat	DAE(C)	01/03/1969	07/11/1995	01/10/2006	B-11	—	Service w.e.f 07/11/1995 to 30/09/2006 as Road Inspector
Hussain	M. Yousaf Khan	Kurram	DAE(C)	11/04/1971	07/11/1995	01/10/2006	B-11	—	Service w.e.f 07/11/1995 to 30/09/2006 as Road Inspector
Hussain	Haji Ahmad Ali	Kurram	DAE(C)	18/04/1972	17/12/1995	01/10/2006	B-11	—	Service w.e.f 17/12/1995 to 30/09/2006 as Road Inspector
Khan	Haji Abdul Ghaffar	DI. Khan	DAE(C)	01/12/1969	05/05/1996	01/10/2006	B-11	—	Service w.e.f 05/05/1996 to 30/09/2006 as Road Inspector
Muhammad	Sharif Khan	Hangu	DAE(C)	05/01/1972	03/06/1996	01/10/2006	B-11	—	Service w.e.f 03/06/1996 to 30/09/2006 as Road Inspector
Muhammad	M. Yaqoob Khan	Mansehra	DAE(C)	09/03/1967	07/06/1996	01/10/2006	B-11	—	Service w.e.f 07/06/1996 to 30/09/2006 as Road Inspector
Hussain	Safdar Hussain	Khyber	DAE(C)	01/01/1966	02/12/1991	01/10/2006	B-11	—	Service w.e.f 01/04/1997 to 30/09/2006 as Road Inspector
Muhammad	Haji Khair Gul	FR Kohat	DAE(C)	20/09/1966	04/10/1997	01/10/2006	B-11	—	Service w.e.f 04/10/1997 to 30/09/2006 as Road Inspector
	Khial Gul	FR Kohat	DAE(C)	15/01/1972	04/10/1997	01/10/2006	B-11	—	Service w.e.f 04/10/1997 to 30/09/2006 as Road Inspector
Muhammad Naeem-V	M. Afsar Khan	Mansehra	DAE(C)	01/04/1972	01/08/1992	01/10/2006	B-11	—	Service w.e.f 01/12/1998 to 30/09/2006 as Road Inspector
Muhammad	Shamshad Khan	Mardan	DAE(E)	10/04/1981	02/03/2007	02/03/2007	B-11	—	Appointed under deceased's son quota
	Haleemullah	NWA	DAE(E)	03/04/1985	02/03/2007	02/03/2007	B-11	—	Appointed under deceased's son quota

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Name of Official	Father's Name	Home District	Qualification	DOB	Date of Appointment to PWD	Date of Appointment Class	Remarks	
382	Mian Mushtaq ur Rehman	Mian Khalil ur Rehman	Bannu	DAE (M)	04/10/1958	11/11/1986	24/05/2007	Promoted from the post of Draftsman. Inter-se-seniority kept intact.
383	Fatehullah	Habibullah	Tank	DAE (C)	20/04/1965	16/03/1988	01/04/2008	Promoted from the post of Draftsman. Inter-se-seniority kept intact.
384	Basher-ur-Rehman	Habib-ur-Rehman	Nowshera	DAE (C)	25/04/1954	17/05/1979	01/04/2008	Promoted from the post of Draftsman. Inter-se-seniority kept intact.
385	Ihsanullah	Gul Zamin Khan	Peshawar	DAE(M)	12/02/1966	04/09/1991	01/04/2008	Promoted from the post of Draftsman. Inter-se-seniority kept intact.
386	Rehmat Ali	Gul Nawaz	Bannu	DAE (C)	05/10/1970	19/02/1995	01/04/2008	Promoted from the post of Tracers. Inter-se-seniority kept intact.
387	Shahid Ali Shah	Pir Sarwar Shah	Bannu	DAE (C)	08/03/1973	20/03/1995	01/04/2008	Promoted from the post of Tracers. Inter-se-seniority kept intact.
388	Zaheer Ahmad	Manzoor Ahmad	Abbottabad	DAE(M)	24/08/1968	22/03/1995	01/04/2008	Promoted from the post of Tracers. Inter-se-seniority kept intact.
389	Arshad Ali Shah	Abdul Samad Khan	Mardan	DAE (C)	03/09/1970	09/04/1995	01/04/2008	Promoted from the post of Tracers. Inter-se-seniority kept intact.
390	Niaz Muhammad-III	Muhammad Ghufuran	Shangla	DAE(M)	20/01/1971	30/04/1995	01/04/2008	Promoted from the post of Tracers. Inter-se-seniority kept intact.
391	Jehanzeb Shah	Aurengzeb Shah	SWA	DAE(C)	15/01/1980	10/05/2009	10/05/2009	Appointed under deceased's son quota

Copy of the above forwarded to:-

1. The Secretary to Govt of NWFP, Works & Services Department, Peshawar
2. The Chief Engineer (FATA), Works & Services Department, Peshawar
3. The Managing Director, Frontier Highways Authority, Peshawar
4. Director Anticorruption Establishment NWFP Peshawar
5. All Executive District Officer, Works & Services in Distt: (s) of NWFP
6. The Director, Provincial Building Maintenance Cell, Administration Department, Peshawar
7. The Director, Provincial Building Construction, Works & Services Department, Peshawar
8. All Deputy Directors, Works & Services in Distt:(s) of NWFP

GR. AHMAD JAMALI
CHIEF ENGINEER

MUHAMMAD
DEPUTY CHIEF ENGINEER

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Annexure-A

GOVERNMENT OF NORTH WEST FRONTIER PROVINCE
SERVICES AND GENERAL ADMINISTRATION,
TOURISM & SPORTS DEPARTMENT

NOTIFICATION

Peshawar the 13 January, 1980

No.SOR-1(S&GAD)1-12/74 - In exercise of the Powers conferred by Section 26 of the North West Frontier Province Civil Servants Act, 1973 (NWFP Act XVIII of 1973). In supersession of all previous rules on the subject on this behalf the Governor of the North West Frontier Province is pleased to make the following rules, namely:-

THE COMMUNICATION AND WORKS DEPARTMENT
(RECRUITMENT AND APPOINTMENTS) RULES, 1979

1. (1) These rules may be called the Communication and Work Department (Recruitment and Appointment) Rules, 1979.
(2) They shall come into force at once.
2. The Method of recruitment, minimum qualifications, age limit and other matters related thereto for the Posts specified in column 2 of the Schedules annexed shall be as given in column 3 to 7 of the said Schedules.

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**GOVERNMENT OF NORTH WEST FRONTIER PROVINCE
SERVICES AND GENERAL ADMINISTRIAL
TOURISM & SPORTS DEPARTMENT**

NOTIFICATION

Peshawar the, 13 January, 1980

No. SOR-1(S&GAD)/1-12/74. In exercise of the Powers conferred by section 26 of the North West Frontier Province Civil Servants Act, 1973, (NWFP Act XVIII of 1973). In supersession of all previous rules on the subject this behalf the Governor of the North West Frontier Province is pleased to make the following rules, name.ly:-

**THE COMMUNICATION AND WORKS DEPARTMENT
(RECRUITMENT AND APPOINTMENTS) RULES, 1979.**

1. (1) These rules may be called the Communication and Work Department (Recruitment and Appointment) Rules, 1979, (2) They shall come into force at once.
2. That Method of recruitment, minimum qualifications, age limit and other matters related there to for the Posts specified in column 2 of the schedules annexed shall be as given in column 3 to 7 of the said Schedules.

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COMMUNICATION AND WORKS DEPARTMENT SCHEDULE - 1

S No.	Nomenclature of Post	Minimum qualification for initial recruitment or by transfer	Minimum qualification for appointment and promotion	Age limit for initial recruitment	Method of recruitment
1.	Chief Engineer Superintending Engineer	1.	-	5	6
	Executive engineer		Degree in Engineering from a recognized University.		By selection on merit from amongst four Senior most officers of the Department, with at least seventeen years experience as Government servant, seniority being considered only in the case of officers of practically the same standard of merit.
	Assistant Engineer	Degree in Civil Electrical or Mechanical Engineering from a recognized University as may be specified by Government for the respective posts.	Degree or Diploma in Engineering from recognized University or Institutions, as specified in column.		By selection on merit from amongst the Executive Engineers or holder of equivalent posts in Communication and Works Department, with at least twelve years service in Grade-17 and 18, seniority being considered only in the case of officers of practically the same standard of merit. By selection on merit with due regard to seniority from amongst assistant Engineers of Communication and Works Department with at least six years experience as such.
	Senior Scale Sub Engineer		Diploma in Engineering from a recognized Institute.		(a) Seniority present by initial recruitment (b) 10% by promotion, on the basis of seniority cum fitness from amongst the Sub Engineers holding a degree in Engineering, seniority to be determined from the date of acquiring degree or initial appointment which ever is later. (c) Twenty percent by selection on merit with due regard to seniority from amongst the Senior Scale Sub Engineers of the Department who hold a diploma and have passed Departmental Professional Examination. Twenty five percent of the total number of posts of the diploma holders Sub Engineers shall from the cadre of Senior Scale Sub Engineers and shall be filled by selection on merit with due regard to seniority from amongst Sub Engineers of the Department, who have passed the Departmental Examination and have at least ten years service as such. By selection on merit with due regard to seniority from amongst the holders of the posts of Senior Superintendent / Superintendents in the Department.

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COMMUNICATION AND WORKS DEPARTMENT
SCHEDULE-I

S.NO	Nomenclature of posts	Minimum for initial qualification appointment and promotion	Minimum qualification for appointment and promotion	Age limit for initial recruitment	Method of recruitment
1	2	3	4	5	6
1.	Chief Engineer				
2.	Superintending Engineer	Degree in Engineering from a recognized university			By selection on merit from amongst four senior most officers of the department, with at least seventeen years experience as Government servants; seniority being considered only in the case of officers of practically the same standard of merit
3.	Executive Engineer				By selection on merit from Executive Engineers or holder of equivalent posts in Communications and works department, with at least twelve years service in Grade 17 and 18, seniority being considered only in the
4	Assistant Engineer	Degree in Civil Electrical or Mechanical Engineering from a recognized university as may be specified by Government for the respective posts	Degree or Diploma in engineering from recognized University or Institutions, as specified in column		(a). Seniority present by initial recruitment (b). 10% by promotion on the basis of seniority cum fitness from amongst the sub engineers holding a degree in engineering, seniority to be determined from the date of acquiring degree or initial appointment which ever is later. (c). 20 percent by selection on merit with due regard to seniority from amongst the senior scale sub engineers of the department who hold a diploma and have passed departmental professional Examination
5	Senior scale sub engineer		Diploma in engineering from a recognized institute		Twenty five percent of the total number of posts of the diploma holder sub engineers and shall be filled by selection on merit with due regard to seniority from amongst sub engineers of the department, who have passed the department examination and have at least ten years service as such
					By selection on merit with due regard to seniority from amongst the holders of the posts of senior superintendent/Superintends in the department

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COMMUNICATION AND WORKS DEPARTMENT

SCHEDULE - II

5 No.	1. Nomenclature of Post	3. Minimum qualification for initial recruitment or by transfer	4. Minimum qualification for appointment and promotion	5. Age limit for initial recruitment	6. Method of recruitment
1.	Principal Engineer Refrigeration / Air-conditioning	<p>M.Sc in Refrigeration / Air conditioning from a recognized University with 10 years experience.</p> <p>By Mechanical Engineer with 15 years experience with National or International Organization of repute in Design Installation and running of Air-conditioning and Refrigeration.</p>		30 to 45 years	By initial recruitment.
		<p>M.Sc in Highways Engineering from a recognized University with at least ten years professional experience in a National or International Organization.</p>		30 to 45 years	By initial recruitment.
		<p>Master's Degree in Civil Engineering from a recognized University with at least ten years professional experience in a National or International Organization.</p>		30 to 45 years	By initial recruitment.

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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 1330/2010

Date of institution ... 01.07.2010
Date of judgment ... 02.03.2016



Muhammad Shafiq S/o Kala Khan,
Sub-Engineer C&W Division, Tehsil & District,
Abbottabad.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa Peshawar, through Secretary C & W Peshawar.
 2. Chief Engineer Centre, C & W, KPK Peshawar.
 3. XEN, C & W, Abbottabad.
 4. Superintending Engineer, C & W, Abbottabad.
 5. Akramullah S/o Nasrullah and 8 others.
- (Respondents)

M/S Aqil Naveed Sulemani, Muhammad Asif Yousafzai,
Khalid Rehman, Adam Khan, Muhammad Ismail Alizai,
Sardar Ali Raiza, Rizwanullah and Abdul Salim, Advocates

For appellant(s)

Mr. Muhammad Adeel Butt,
Additional Advocate General
Nemo

For official respondents
For private respondents

Mr. Muhammad Azim Khan Afridi
Mr. Pir Bakhsh Shah
Mr. Abdul Latif

Chairman
Member (Judicial)
Member (Executive)

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JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI CHAIRMAN:

This judgment is aimed at disposal of instant service appeal No. 1330/2010 as well as service appeals No. (2) 1321/2011 titled Khalid Nacem-vs-Govt. of KPK through Secretary C & W etc. (3) 1248/2012 titled Daulat Khan-vs-Govt. of KPK through Secretary C & W etc. (4) 845/2013 titled Saeedullah-vs-Govt. of KPK through Secretary C & W etc. (5) 848/2013 titled Muddasar Saghir-vs-Govt. of KPK through Secretary C & W etc. (6) 972/2013 titled Ghulam Qadir-vs-Govt. of KPK through Secretary C & W etc. (7) 1009/2013 titled Riaz Ahmed-vs-Govt. of KPK through Secretary C & W etc. (8) 1015/2013 titled Muhammad Idress-vs-Govt. of KPK through Secretary C & W etc.

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- (9) 1184/2013 titled Abdul Qayyum-vs-Govt. of KPK through Secretary C & W etc.
- (10) 1185/2013 titled Sarfaraz Alam-vs-Govt. of KPK through Secretary C & W etc.
- (11) 1186/2013 titled Muhammad Hamid Zia-vs-Govt. of KPK through Secretary C& W
- (12) 1188/2013 titled Shad Muhammad Khan-vs-Govt. of KPK through Secretary C&W
- (13) 1189/2013 titled Syed Abdullah Shah-vs-Govt. of KPK through Secretary C & W
- (14) 1190/2013 titled Nawazish Ali-vs-Govt. of KPK through Secretary C & W etc.
- (15) 1191/2013 titled Niaz Muhammad-vs-Govt. of KPK through Secretary C & W etc.
- (16) 1139/2013 titled Zia-ud-Din -vs- Govt. of KPK through Secretary C & W etc.
- (17) 1300/2013 titled Qaiser Shah -vs- Govt. of KPK through Secretary C & W etc.
- (18) 1338/2013 titled Aurangzeb -vs- Govt. of KPK through Secretary C & W etc.
- (19) 1431/2013 titled Habib Ullah -vs- Govt. of KPK through Secretary C & W etc.
- (20) 1446/2013 titled Mian Jehanzeb Khattak-vs-Govt. of KPK through Secretary C& W
- (21) 1561/2013 titled Yousaf Ali -vs- Govt. of KPK through Secretary C & W etc.
- (22) 1631/2013 titled Muhammad Shakeel Athar -vs- Secretary C & W KPK etc.
- (23) 1632/2013 titled Malik Arif Saeed Dyal-vs-Govt. of KPK through Secretary C&W
- (24) 1633/2013 titled Muhammad Khalil Noor-vs-Govt. of KPK through Secretary C&W
- (25) 95/2014 titled Muhammad Saecd-vs-Govt. of KPK through Secretary C & W etc.
- (26) 96/2014 titled Zahir Gul -vs- Govt. of KPK through Secretary C & W etc.
- (27) 224/2014 titled Muhammad Zubair-vs-Govt. of KPK through Secretary C & W
- (28) 246/2014 titled Abdul Ruhim -vs- Govt. of KPK through Secretary C & W etc.
- (29) 365/2014 titled Zulfiqar Ahmad-vs-Govt. of KPK through Secretary C & W etc.
- (30) 366/2014 titled Nascem Ahmed-vs-Govt. of KPK through Secretary C & W etc.
- (31) 367/2014 titled Mazhar Khan -vs- Govt. of KPK through Secretary C & W etc.
- (32) 393/2014 titled Muhammad Javed-vs-Govt. of KPK through Secretary C & W etc.
- (33) 471/2014 titled Said-ul-Ibrar -vs- Govt. of KPK through Secretary C & W etc.
- (34) 477/2014 titled Lal Badshah -vs- Govt. of KPK through Secretary C & W etc.
- (35) 484/2014 titled Abdul Khalil -vs- Govt. of KPK through Secretary C & W etc.
- (36) 489/2014 titled Abdul Farooq -vs- Govt. of KPK through Secretary C & W etc.

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- (37) 513/2014 titled Irshad Ahmed Khan-vs-Govt. of KPK through Secretary C & W
- (38) 699/2014 titled Muhammad Akram-vs-Govt. of KPK through Secretary C & W
- (39) 700/2014 titled Abdul Qayum-vs-Govt. of KPK through Secretary C & W etc,
- (40) 722/2014 titled Faiz Ullah Khan-vs-Govt. of KPK through Secretary C & W etc,
- (41) 749/2014 titled Zamir Jang -vs- Govt. of KPK through Secretary C & W etc.
- (42) 770/2014 titled Syed Tariq Mahmood-vs-Govt. of KPK through Secretary C & W
- (43) 852/2014 titled Ghulam Rahim-vs-Govt. of KPK through Secretary C & W etc.
- (44) 907/2014 titled Liaqat Shah -vs- Govt. of KPK through Secretary C & W etc.
- (45) 915/2014 titled Nour-ul-Basar -vs- Govt. of KPK through Secretary C & W etc.
- (46) 920/2014 titled Sabii Khan -vs- Govt. of KPK through Secretary C & W etc.
- (47) 1035/2014 titled Manzoor Ilahi -vs- Govt. of KPK through Secretary C & W etc.
- (48) 1100/2014 titled Fazal Mahmood-vs-Govt. of KPK through Secretary C & W etc.
- (49) 1112/2014 titled Nisar Ahmed -vs- Govt. of KPK through Secretary C & W etc.
- (50) 1132/2014 titled Taj Muhammad-vs-Govt. of KPK through Secretary C & W etc.
- (51) 1223/2015 titled Sardar Naecm Ahmed-vs-Govt. of KPK through Secretary C & W etc. and (52) 1284/2015 titled Muhammad Zaka Khan-vs-Govt. of KPK through Secretary C & W etc as common questions of law and facts are involved therein.

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2. In appeal No. 1330/2010, Muhammad Shafiq appellant has prayed for grant of BPS-16 being senior to private respondents No. 5 to 13 i.e Akramullah s/o Nasrullah, Sher Wali Jhang s/o Amirzada Khan, Misal Khan s/o Yousaf Khan, Hidayatullah-I s/o Anayatullah Khan, Sanaullah Tajori-III s/o Muslim Khan, Zaffarullah Khan s/o Ahbebullah, Tariq Usman s/o Noor Zahib Khan, Muhammad Javed Rahim s/o Abdur Ruhim and Jamshid Khan-I s/o Saif-ur-Rehman. According to his stance the said respondents were granted Senior Scale and appellant ignored despite the fact that he was senior and fit and fulfilling the prescribed criteria.

ATTESTED

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Khalid Naem
Secretary
Parliament

3. In appeal No. 1321/2011 instituted on 11.7.2011, appellant Khalid Naem is seeking directions of this Tribunal so as to grant him B-16 as he has joined the C & W

Department as Sub-Engineer on 9.12.1981 and has passed B-Grade Departmental Examination in the year 1994 and has more than 30 years service to his credit including good service record and entitling him to the grant of Senior Scale on the strength of 25% of the total number of posts of Sub-Engineers.

4. In appeal No. 1248/2012, appellant Daulat Khan has prayed for grant of BPS-16 as per rules with all consequential benefits from due date as he has qualified the prescribed examination and rendered more than 10 years service.

5. In appeal No. 845/2013, appellant Sacedullah has prayed for grant of Senior Scale (BPS-16) mainly on the ground that this Tribunal has granted the Senior Scale to similarly placed employees vide judgment dated 11.12.2012 and as such he is entitled to alike treatment. Similar prayers are made by appellants in appeals No. 848/2013, 1009/2013, 1184 to 1186/2013, 1188 to 1191/2013, 1139/2013, 1300/2013, 1338/2013, 1446/2013, 1561/2013, 224/2014, 246/2014, 365/2014, 366/2014, 489/2014, 513/2014, 699/2014, 700/2014, 722/2014, 749/2014, 852/2014, 907/2014, 915/2014, 920/2014, 1035/2014 and 1132/2014.

6. In appeal No. 972/2013, appellant Ghulam Qadir has prayed for grant of BPS-16 with all back benefits on the ground of fulfilling the prescribed criteria and on the rule of alike treatment extended to similarly placed employees. He has also prayed for special cost on the ground that he was deprived of his due right by the respondents and compelled to litigate for his right as similarly placed Sub-Engineer were extended benefits of litigation while appellant was discriminated for no fault on his part.

7. In appeal No. 1015/2013, appellant Muhammad Idrees Alizai has prayed for grant of Senior Scale (BPS-16) with back benefits and imposition of Special Cost as despite his entitlement to the said scale and judgment of this Tribunal in service appeal

titled "Noshad Khan-vs-Government of KPK", he was deprived of his entitlement to Senior Scale and forced to litigate.

8. In appeal No. 1631/2013, appellant Muhammad Shakeel Athar has prayed for grant of Senior Scale on the ground that junior to him namely M/S Mashal Khan, Misal Khan-II and Syed Sardar Shah were granted the same while he ignored despite entitlement on the analogy of similar treatment extended to similarly placed employees.

9. In appeal No. 1632/2013, appellant Malik Arif Saeed Diyal has prayed for grant of Senior Scale (BPS-16) on the ground that his junior colleagues were granted the same and he was discriminated. Similar prayers are made by the appellants in appeals No. 1431/2013, 95/2014, 96/2014, 393/2014, 471/2014, 477/2014, 484/2014, 770/2014 and 1100/2014.

10. In appeal No. 1633/2013, appellant Muhammad Khalil Noor has impugned order dated 22.5.2013 with a prayer that the same be set-aside and he may be granted Senior Scale (BPS-16) with effect from the date of qualifying Departmental Examination and 10 years qualifying service with all back benefits.

11. In appeal No. 367/2014, appellant Mazhar Khan has prayed that his junior colleagues were granted Senior Scale and he was ignored and discriminated. He has also prayed for grant of Senior Scale (BPS-16) on the rule of alike treatment as extended to similarly placed employees in appeals by this Tribunal vide judgment dated 11.12.2012. A similar prayer is made by appellant Nisar Ahmed in appeal No. 1112/2014.

12. In appeal No. 1223/2015, appellant Sardar Naecm Ahmed has prayed for Senior Scale being senior as his junior colleagues were granted the same and he was ignored. He has also prayed for grant of Senior Scale (BPS-16) on the rule of alike treatment as extended to similarly placed employees in appeals by this Tribunal vide judgments

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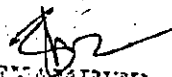
dated 23.4.2009 and 11.12.2012. A similar prayer is made by appellant Muhammad Zaka Khan in appeal No. 1284/2015.

13. Learned counsel for the appellants as well as appellants argued that according to Schedule-I of Communication and Works Department (Recruitment and Appointment) Rules, 1979, appellants were entitled to appointment as Senior Scale Sub-Engineers as they were fulfilling the pre-requisites and prescribed criteria. That even junior civil servants serving as Sub-Engineers were promoted and even appointed as Sub Divisional Officers in their own pay scale while appellants ignored for no fault or omission on their part. That earlier this Tribunal has granted Senior Scale to the aggrieved civil servants approaching this Tribunal and that keeping in view the criteria laid down for grant of Senior Scale and judgments of this Tribunal, the appellants are entitled to alike treatment. Reliance was placed on case-law reported as 2009 SCMR 1 (Supreme Court of Pakistan), 2002 SCMR 71 (Supreme Court of Pakistan), 1996 SCMR 1185 (Supreme Court of Pakistan) and PLD 2002 Supreme Court 46 as well as judgments of this Tribunal dated 23.4.2009 and 11.12.2012.

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14. Learned Additional Advocate General has argued that the C & W Department was obliged to restrict grant of Senior Scale to the extent of criteria laid down at S.No.5 of Schedule-I of the said Rules and that on the strength of the same 25% of total sanctioned posts were treated as Senior Scale posts (BPS-16) and the concerned civil servants accordingly up-graded at the relevant times as per laid-down criteria. He further argued that due to improprieties, undue favours, incorrect interpretation of rules and erroneous interpretation of the judgments of this Tribunal and the rule of alike treatment the said scheme of grant of Senior Scale was frustrated at different levels and times and as a consequence thereof Senior Scale (B-16) was granted to Sub-Engineer in excess of 25% of the sanctioned strength of Sub-Engineers and, therefore, Provincial exchequer was exposed to sustain huge and constant financial liability. That since the respondent department has exhausted the prescribed 25% of total number of sanctioned

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

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posts meant for Senior Scale Sub-Engineers and the scheme of grant of the said Senior Scale stood abolished under the Pay Revision Rules, 2001 by December 1, 2001, as such the appellants were not entitled to the Selection Grade claimed through the instant service appeals. He further argued that the authorities involved in illegal appointments and grant of Senior Scale were accountable to Provincial Government and irregularities carried out in the process were liable to be declared null and void.

15. We have heard arguments of the learned counsel for the parties and perused the record.

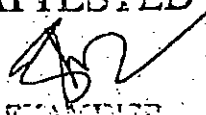
16. Keeping in view the pleadings, record placed before us and arguments of learned counsel for the parties and appellants, the following emerging controversies and points need determination:

- i. Impact of Recruitment and Appointment Rules, 1979 and its life cycle vis-a-vis claims of appellants.
- ii. Entitlement of appellants to Senior Scale on the rules of alike treatment and grant of the same to civil servants ignored despite seniority.
- iii. Legal status of appointments against higher posts in Own Pay Scale.
- iv. Impact of judgments of this Tribunal dated 11.12.2012 and 23.4.2009.

02.03.16

17. For answering and determining the points in issue, we deem it appropriate to refer to and reproduce the Notification of the then Provincial Government, Services, General Admn, Tourism and Sports Department dated Peshawar, the 13th January, 1980 on the basis whereof Communication and Works Department (Recruitment and Appointment) Rules, 1979 were promulgated and which reads as under:

ATTESTED


Khairullah
Services Department,
Peshawar

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GOVERNMENT OF NORTH WEST FRONTIER PROVINCE
SERVICES & GENERAL ADMINISTRATION, TOURISM & SPORTS
DEPARTMENT.

NOTIFICATION

Peshawar the 13 January, 1980

No. SOR-(S&GD)1-12/74.---In exercise of the Powers conferred by Section 26 of the North West Frontier Province Civil Servant Act, 1973 (NWFP Act XVIII of 1973), in supersession of all previous rules on the subject in this behalf the Governor of the North-West Frontier Province is pleased to make the following Rules, namely:-

THE COMMUNICATION & WORKS DEPARTMENT
(RECRUITMENT AND APPOINTMENTS) RULES, 1979.

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(1) These rules may be called the Communication and Works Department (Recruitment and Appointment) Rules, 1979.

(2) They shall come into force at once.

3. The Method of recruitment, minimum qualifications, age limit and other matters related thereto for the Posts specified in column 2 of the Schedules annexed shall be as given in column 3 to 7 of the said Schedules.

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13/1/80

COMMUNICATION & WORKS DEPARTMENT
SCHEDULE-I

S.NO.	Nomenclature of post	Minimum Qualifications for Appointments		Age for initial Recruitment		Method of Recruitment
		Initial Recruitment by Transfer	Promotion	Minimum	Maximum	
1	2	3	4	5	6	7
1 to 4	<i>Irrelevant</i>					
5	Senior Scale Sub-Engineer		Diploma in Engineering from a recognized Institute			Twenty five percent of the total number of posts of the diploma holders, Sub-Engineers shall from the cadre of Senior Scale Sub-Engineers and shall be filled by selection on merit with due regard to seniority from amongst Sub-Engineers of the Department, who have passed the Departmental Examination and have at least ten years service as such.
6 and onwards	<i>Irrelevant</i>					

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Secretary
Peshawar

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18. A plain reading of the text appearing at serial No. 5 of the schedule reproduced above would suggest that a civil servant aspiring for the Senior Scale Sub-Engineer shall hold a Diploma in Engineering from a recognized Institute, shall rank senior among his colleagues, shall hold a position falling within domain and sphere of 25% of the total number of posts of the Sub-Engineers, shall have at least 10 years service as Sub-Engineer and shall have passed the prescribed departmental examination at the relevant time. In other words a Sub-Engineer devoid of the above criteria and traits would not be entitled to claim Senior Scale. The said rule and schedule has explicitly curtailed the magnitude, size and sphere of the Senior Scale Sub-Engineers to 25% of the total sanctioned posts of Sub-Engineers and, therefore, no authority was empowered to exceed or surpass the said number of Senior Scale Sub-Engineers.

19. The operation of the said rules applicable to Sub-Engineer with reference to grant of Senior Scale to 25% of the total number of posts has come to an end with effect from December 1, 2001 in view of notification dated 27.10.2001 whereby the scheme of selection grade and Move-over stood discontinued as laid down in para-7 of the said Pay Revision Rules, 2001.

02-03-06

20. It is, therefore, held and concluded that the Senior Scale admissible to Sub-Engineers could only be granted and restricted to those Sub-Engineers who were fulfilling the prescribed criteria in the above manner on or before December 1, 2001.

21. Record placed before us in different appeals would suggest that to implement the said rule in letter and spirit, the Establishment Department was constrained to issue letter No. SO(PSB)E/D/1-23/2002 dated Peshawar, the 3.7.2004 wherein cut off date for processing pending cases was extended to 31.8.2004 with certain observations, relevant portion whereof is reproduced herein for facilitation and ready reference:

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[Signature]

"All left over cases of Government Servants who were eligible for Selection Grade/Moveover before 1.12.2001 may be placed before PSB"

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1971

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DPC for consideration as per instructions/policy on the subject at the latest otherwise strict disciplinary action would be taken against the defaulting official under the NWFP Removal from Service (Special Powers) Ordinance, 2000."

22. Authorities at the helm of affairs were conscious and cognizant of the facts and law that a civil servant otherwise entitled to Senior Scale could not be deprived of the same because of incomplete service record including Performance Evaluation Reports (PERs) etc. and for reasons not attributable to such a civil servant. To achieve the righteous outcome and to avoid irregularities the defaulting officers were warned to be proceeded against under the punitive rules then in-vogue. Miseries of the aspiring and deserving Sub-Engineers came to surface when instead of competing and submitting the cases, junior officers were favoured and elevated to the Senior Scale prompting those ignored to approach this Tribunal for redressal of their grievances and this Tribunal, vide judgments dated 23.4.2009 and 11.12.2012 granted the relief by directing the respondents to extend similar treatment to equally placed employees by granting them Senior Scale.

02-03-16
23. The department and authority responsible to restrict Senior Scale to the prescribed 25% limit of posts and bound to raise concerns over such irregularities and state of affairs simply granted Senior Scale to Sub-Engineers in excess of 25% of the total number of posts in disregard of the rules. The grant of the said Senior Scale has not come to an end till date for the reasons that the same is granted by ignoring the prescribed limit of 25% including the time frame ending on December 1st, 2001. The practice adopted is not only condemnable but also worth taking note of because of overburdening the public exchequer offensively.

24. Section-5 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 hereinafter referred to as the Civil Servants Act, 1973 mandates that appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be

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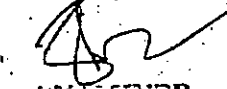
made in the prescribed manners by the Governor or by a person authorized by the Governor in that behalf. Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, hereinafter referred to as APT Rules, 1989 framed under the provisions of section-26 of the Act, 1973 restricts but empowers the competent authority to make appointments, in case of exigencies prescribed in Rule-9, on acting or current charge basis in the public interest. Appointment to a higher post in own pay scale is a practice ruinous to Service Rules and structure of civil service and is ordinarily adopted by the authority to either favour their nears and dears or to distant the deserving civil servants due for promotion or to delay or beat timely inductions through initial appointments. This practice is frequently adopted and applied by the authorities despite the fact that the same is illegal and condemnable. We, therefore, hold that appointment of a civil servant in his own pay scale against a higher post is a practice derogatory to law and rules and good governance and we, therefore, accordingly direct that the same be discontinued by the authorities concerned forthwith but not beyond a period of one month. We further resolve and hold that the authorities failing to discontinue or pursuing such unlawful practices in future be dealt with under the relevant punitive laws and that departmental action against such incumbents for misusing and abusing authority vested in them by virtue of their office shall be initiated and concluded to logic end.

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25. We are conscious of the fact that giving definite findings about the validity of judgments of this Tribunal entitling appellants in the stated appeals to Senior Scale are not warranted at this stage as the said matter is not agitated before us in the manners prescribed by law. We, therefore, direct that in case a Sub-Engineer not falling within the parameters of selection to Senior Scale on the above criteria but availing the privileges of such scale on the strength of any office order or judgment of this Tribunal be dealt with in accordance with law and subject to legal process and if so permitted by law, recoveries be made from their persons.

26. We further hold and direct that slots at the prescribed ratio available for grant

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SECRETARY
Khyber Pakhtunkhwa
Service Tribunal,

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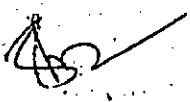
of Senior Scale at the relevant times be calculated by the department and those fulfilling the criteria for Senior Scale but ignored due to lapses not attributable to ignored/let/over officers be granted the Senior Scale from the date of entitlement i.e accruing of vacancies in the Senior Scale but subject to the provisions of the Pay Revision Rules, 2001. We also direct that the Provincial Government shall honour its directive and shall take disciplinary action against those responsible for maintaining, updating and completing the record of the officers, but ignoring their responsibilities and thus giving space to irregularities and illegalities thereby causing and inflicting losses on public exchequer.

(27) We are alive to the situation that while computing the seats of Sub-Engineer in the Senior Scale and eligibility of the senior officers against the same the authorities concerned may find grant of selection grade allowed in excess of the prescribed limit and ratio. We, therefore, direct that the situation be addressed by the authorities concerned by resorting to legal course and in case any officer granted Senior Scale in excess of prescribed limit is found protected by any law, rules or judgment of the Court then, in such eventuality, the officers of the administrative department responsible for handling the affairs relating to grant of Senior Scale at the relevant time be sorted out and be proceeded against for realization of monetary loss caused to the public exchequer as a consequence of their irresponsible and undesirable behavior.

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28. Before parting with this judgment we deem it our duty to discuss the case law cited at the Bar at the time of arguments by the learned counsel for the parties.

29. In case of Hameed Akhtar Niazi reported as 1995 SCMR 1185 and Sameena Perveen reported as 2009 SCMR 1, the august Supreme Court of Pakistan has observed that if the Service Tribunal or Supreme Court decides a point of law relating to the terms and conditions of service of a civil servant which covers not only the case of civil servant who litigated but also of other civil servants who may have not taken any legal proceedings, in such a case, the dictates and rule of good governance

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demand that the benefit of such judgment by Service Tribunal/Supreme Court be extended to other civil servants who may not be parties to the litigation instead of compelling them to approach the Service Tribunal or any other forum.

30. Though adequate number of Sub-Engineers seeking Senior Scale are present before us but there is likelihood that certain civil servants might not have approached this Tribunal to litigate for their claims. We, therefore, direct that the benefit of this judgment be extended to those Sub-Engineers who fulfilled the criteria of becoming Senior ^{scale} Sub-Engineer at the relevant time.


31. In case of Fida Hussain reported as PLD 2002 Supreme Court 46 and Abdul Samad reported as 2002 SCMR 71 it was observed by the august Supreme Court of Pakistan that rule of consistency must be followed in order to maintain balance and the doctrine of equality before law. That dictates of law, justice and equity required exercise of power by all concerned to advance the cause of justice and not to thwart it.

32. Deriving wisdom from the mandates of law, judgment of the august Supreme Court of Pakistan and to advance the cause of justice and to frustrate efforts and attempts of thwarting just and fair-play we direct that the judgment be giving effect by the respondents in letter and spirit.

33. The appeals are disposed of in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record room.

34. In the end we direct the Registrar of this Tribunal to circulate a copy of this judgment among all concerned departments of the Provincial Government for guidance and compliance.

Announced
02.03.2016
Self-M. Azim Khan Abbidi, Chairman
Self-Pir Bakht Shah, Member
Self-Abdul Latif, Member

Co...


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IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
MR. JUSTICE EJAZ AFZAL KHAN
MR. JUSTICE GULZAR AHMED.

Civil Petitions No. 223-P, 303-P to 359-P, 391-P to 374-P and 473-P of 2016

(On appeal against the judgment of Mr. Justice Ijaz Ahmad in the case of Government of Punjab v. Mazharul Haque and others, reported in PLD 2016 SC 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000)

Government of KPK, through Secretary [C & W], Peshawar and others.
...Petitioner[s] (in all cases)

VERSUS

Muhammad Shafiq and others.
Khalid Naem.
Daulat Khan.
Saadullah.
Mudassar Sahgir.
Ghulam Qadir and others.
Riaz Ahmad.
Muhammad Idris and others.
Zia-ud-Din.
Abdul Qayyum-I.
Sarfaraz Alam.
Muhammad Hamid Zia.
Shad Muhammad Khan.
Syed Abdullah Shah.
Nawazish Ali Shah.
Riaz Muhammad.
Qaiser Shah.
Aurangzeb.
Habibullah.
Mir Jehanzeb Khattak.
Yousaf Ali-III.
Muhammad Shakeel Ahar.
Malik Arif Saeed Diyar.
Muhammad Khalid Noor.
Muhammad Saeed-II.
Zahir Gul.
Muhammad Zubair.
Abdur Rahim.
Zulfiqar Ahmad.
Naseem Ahmad.
Munir Khan and another.
Muhammad Javed and others.
Saidi Ibror and another.
Lal Badshah.
Abdul Khalid.
Abdul Farooq.
Ishad Ahmad Khan.
Muhammad Akram.
Abdul Qayum.
Fakullah Khan-II.
Zamir Jang.
Syed Tariq Mahmood.
Ghulam Rahim.
Uqat Shah.
Noor ul Basar.
Sabit Khan.

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Court Associate
Supreme Court of Pakistan
(Islamabad)

ATTESTED

Manzoor Bahl,
Fazal Mehmood,
Nisar Ahmad,
Taj Muhammad,
Sardar Naeem Ahmad,
Muhammad Zaka Khan,
Abdul Hameed,
Syed Azmat Ali Shah,
Inamul Haq,
Imtiaz Ali Khan,
Sall-ur-Rahman.

...Respondent(s)

For the Petitioner(s):

Mian Ashad Jah, Addl. A. G. KPK,
Mian Saadullah Jandali, AOR. (Absent)

For the respondent(s):

Mr. Ijaz Anwar, ASC,
Mr. M. S. Khotak, AOR.

Date of Hearing:

13.02.2017

ORDER

EJAZ AFZAL KHAN J. These petitions for leave to appeal have arisen out of the judgment dated 02.03.2014 of the KPK Service Tribunal, Peshawar whereby it allowed the appeal filed by the respondents.

2. The learned Addl. A. G. appearing on behalf of the petitioners contended that he does not tend to question the impugned judgment on the questions of law and fact all the same he would have very serious reservations about the mode suggested therein to resolve the anomalies:

3. Learned ASC appearing on behalf of the respondents contended that the impugned judgment resolving anomalies created an account of exceeding quota prescribed for grant of senior scale is perfectly in accordance with the relevant rules, therefore, it is not open to any exception.

4. We have gone through the record carefully and considered the submissions of the learned Addl. Advocate General appearing on behalf of the petitioners as well as learned ASC for the respondents.

5. A look at the impugned judgment would reveal that a Full Bench of the Service Tribunal took pains to examine all the excesses and irregularities committed in the grant of senior scale to many in derogation

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Attorney General of Pakistan

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of relevant rules. Not only that it also issued directions to undo them. Paragraphs 23, 24, 25 and 26 of the impugned judgment merit a reproduction for facility of reference which read as under:-

23. The department and authority responsible to restrict senior scale to the prescribed 25% limit of posts and bound to raise concerns over such irregularities and state of affairs simply granted senior scale to Sub-Engineers in excess of 25% of the total number of posts in disregard of the rules. The grant of the said senior scale has not come to an end till date for he reasons that the same is granted by ignoring the prescribed limit of 25% including the time frame ending on December 1st, 2001. The practice adopted is not only condemnable but also worth taking note of because of overburdening the public exchequer offensively.


24. Section 5 of the Khyber Pakhtunkhwa-Civil Servants Act, 1973 hereinafter referred to as the 'Civil Servants Act, 1973' mandates that appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manners by the Governor or by a person authorized by the Governor in that behalf. Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, hereinafter referred to as APT Rules, 1989, framed under the provisions of section-26 of the Act, 1973 restricts but empowers the competent authority to make appointments, in case of exigencies, prescribed in Rule-9, on acting or current charge basis in the public interest. Appointment to a higher post in own pay scale is a practice ruinous to Service Rules and structure of civil service and ordinarily adopted by the authority to either favour their nears and dears or to distort the deserving civil servants due for promotion or to delay or beat timely inductions through illegal appointments. This practice is frequently adopted and applied by the authorities despite the fact that the same is illegal and condemnable. We, therefore, hold that appointment of a civil servant in his own pay scale against a higher post is a practice derogatory to law and rules and good governance and we, therefore, accordingly direct that the same be discontinued by the authorities concerned forthwith but not beyond a period of one month. We further resolve and hold that the authorities failing to discontinue or pursuing such unlawful practices in future be dealt with under the relevant punitive laws and that departmental action against such incumbents for misusing and abusing authority vested in them by virtue of their office shall be initiated and concluded to logic end.

25. We are conscious of the fact that giving definite findings about the validity of judgments of this Tribunal entitling appellants in the stated appeals to senior scale are not warranted at this stage as the said matter is not agitated before us in the manner prescribed by law. We, therefore, direct that in case a Sub-Engineer not falling within the parameters of selection to senior scale on the above criteria but availing the privileges of such scale on the strength of any office order or judgment of this Tribunal be dealt with in accordance with law and subject to legal process and if so permitted by law, recoveries be made from their persons.

26. We further hold and direct that slots at the prescribed ratio available for grant of senior scale at the relevant times be calculated by the department and those fulfilling the criteria for senior scale but ignored due to lapses not attributable to ignored/retrover officers be granted the senior scale from the date of entitlement i.e. accruing of vacancies in the senior scale but subject to the provisions of the Pay Revision Rules, 2001. We also direct that the Provincial Government shall honour its directive and shall take disciplinary action against those responsible for

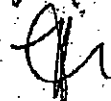
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ATTESTED



Court Associate
Supreme Court of Pakistan
Islamabad

ATTESTED



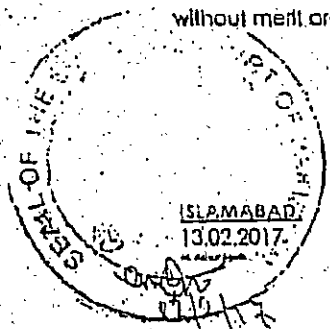
37

21

maintaining, updating and completing the record of the officers, but ignoring their responsibilities and thus giving space to irregularities and illegals thereby causing and inflicting losses on public exchequer."

6. Having read the paragraphs reproduced above from the impugned judgment, we don't find anything anomalous or inconsistent with the relevant rules and dispensation. It in our view suggested a balanced mode to resolve the anomalies and redress the grievances of those who are victims of unfair and unjust apportionment. When this being the case the better course for the petitioners is to implement the impugned judgment rather than question it on any hyper technical ground particularly when none of the persons aggrieved by it has filed any petition thereagainst in this Court. We, thus, don't feel persuaded to interfere therewith.

7. For the reasons discussed above, these petitions being without merit are dismissed and the leave asked for is refused.



Sd/-Ejaz Afzal Khan, J
Sd/-Gulzar Ahmed, J

Certified to be True Copy

[Signature]
1-3-17
Court Associates
Supreme Court of Pakistan
Islamabad

2790/17
GR No: _____
Date of Receipt: 1-3-17
No. of Writs: 12
Name: _____
Remarks: S.O.
C.O. No: 7/66
C.O. No: 10/W
Date: 1-3-17
Date: 1/3/17
Received by: *[Signature]*

[Signature]

ATTESTED

To be substituted with this Department's
Notification of even number and date



GOVT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the April 30, 2018

E 38

NOTIFICATION

No. SOE/C&WD/4-2/2018: Pursuant to Khyber Pakhtunkhwa Service Tribunal Judgment dated 02.03.2016 upheld by Supreme Court of Pakistan vide its order dated 13.02.2017 duly opined by this Department and in consultation with the Departmental Promotion Committee, the Competent Authority has been pleased to grant Senior Scale/selection grade BS-16 in respect of the following Sub Engineers of C&W Department w.e.f. 04.09.2003 i.e. the date on which their juniors were awarded Senior Scale (BS-16) or from the dates they become qualify, whichever is latter, as per prevailing policy.

- | | | |
|-----------------------------|----------------------------|-----------------------|
| 1. Muhammad Zubair | 2. Muhammad Akram | 3. Irshad Ahmad |
| 4. Abdul Qayum | 5. Abdul Farooq | 6. Saeedullah |
| 7. Ghulam Qadar (rtd) | 8. Muhammad Idrees Allzai | 9. Khalid Na'eam |
| 10. Syed Tariq Mehmood | 11. Muddasar Saghir (rtd) | 12. Zahir Gul (rtd) |
| 13. Muhammad Zaka Khan | 14. Muhammad Saeed | 15. Aurangzeb |
| 16. Daulat Khan (rtd) | 17. Naseem Ahmad | 18. Abdur Rahim (rtd) |
| 19. Sarfaraz Alam (rtd) | 20. Niaz Muhammad | 21. Riaz Ahmad (rtd) |
| 22. Zulfiqar Ahmad | 23. Syed Abdullah Shah | 24. Yousaf Ali |
| 25. Syed Qasir Shah | 26. Syed Nawazish Ali Shah | 27. Abdul Qayum |
| 28. Muhammad Hamid Zia | 29. Mian Jehanzeb | 30. Zia-ud-Din |
| 31. Malik Arif Saeed | 32. Muhammad Shakeel Athar | 33. Sajid-ul-Ibrar |
| 34. Muhammad Khalil Noor | 35. Muhammad Shafiq | 36. Fazal Mehmood |
| 37. Taj Muhammad (rtd) | 38. Sabit Khan (rtd) | 39. Liaqat Shah (rtd) |
| 40. Noor-ul-Basar | 41. Muhammad Javed | 42. Ghulam Rahim |
| 43. Lal Badshah (rtd) | 44. Inam-ul-Haq Babar | 45. Fazal Rehman |
| 46. Syed Azmat Ali Shah | 47. Sajf-ur-Rehman | 48. Ajmal Khan |
| 49. Abdul Waheed | 50. Abdul Khalil | 51. Hassan Jan |
| 52. Roizdar Muhammad | 53. Ejaz Resood (died) | 54. Sibghatullah |
| 55. Muhammad Ghazanfar Khan | | |

2. The posts shall automatically stand downgraded to their original status as and when vacated by the present incumbents.

SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

P.T.O

To

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

5736
7/8/2023
Secretary C&W Dept
F 39

Subject: REQUEST FOR GRANT OF SENIOR SCALE (BPS-16)

Respected Sir,

That the undersigned was appointed as Sub Engineer in C&W Department Peshawar in BPS-11 in the year 1988. During service the undersigned passed Grade-B departmental exam in 1996 and passed departmental professional examination in 2006 which is a necessary requirement for promotion to BPS-16. My name was appearing at Serial No.214 of the seniority list circulated vide Chief Engineer, Works & Services Department Notification No.266/E/941/CE/WSD dated 25.08.2009 and at Serial No.154 of the seniority list circulated vide Chief Engineer Centre, C&W Department Khyber Pakhtunkhwa Notification No.266-E/222/CE/C&WD dated 31.01.2013.

It has come to my knowledge that Senior Scale BPS-16 allowed to other Sub Engineers of this Department (Juniors to me) vide C&W Department Notification No.SOG/C&W/3-365/2015 dated 31.10.2022.

The undersigned is also entitled for grant of BS-16 w.e.f 04.09.2003 alongwith all back benefits in light of the judgments of Apex Court in cases titled Hamed Akhtar Niazi 1996 SCMR 1185 and Sameena Parveen 2009 SCMR as well Khyber Pakhtunkhwa Service Tribunal judgment dated 02.03.2016 in Service Appeal No.1330/2010.

In light of the above, it is humbly requested that the undersigned may be granted BS-16 w.e.f due date i.e. 04.09.2003 alongwith all back benefits.

Dated: 7/8/23

(Abdul Saboor Khan)
Sub Divisional Officer
the Executive Engineer,
C&W Highway Division Swabi

7/8/23



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No.SOG/C&W/3-365/2015

Dated Peshawar the: 31.10.2022.

35

490

NOTIFICATION:

NO./SOG/C&W/3-365/2015:- Consequent upon the recommendations of the Departmental Promotion Committee meeting held on 18.10.2022, the Competent Authority has been pleased to grant Senior Scale BS-16 in respect of the following Sub Engineer C&W Department w.e.f 04.09.2003 (the date on which their Juniors were awarded Senior Scale (BS-16))in pursuance of execution petition No. 350/2018 in Service Appeal no 1330/2010 decided on 02.03.2018.

S.No	Name	Father Name
01.	Zewar Din (Retired)	Rehman Ud Din
02.	Wahed Ahmad (Retired)	Umar Bakhsh
03.	Mushtaq Ali	Sherin Gul
04.	Azmat Ullah	Hameed Ullah
05.	Hafeez Ur Rehman (Retired)	Habib Ur Rehman
06.	Muhammad Naeem-III (Retired)	Muhammad Ashraf
07.	Iftikhar Babar (Retired)	Fazal Ilahi Babar
08.	Muhammad Shaukat	Abdur Rehman
09.	Ishaq Ahmad Khan-I (Retired)	Sardar Kala Khan
10.	Muhammad Sajjad	Abdul Haleem
11.	Imdad Ur Rehman (Retired)	Muhammad Ismail
12.	Muhammad Iqbal (Retired)	Fazal Malik
13.	Ibari Ullah (Retired)	Muhammad Karim
14.	Muhammad Hayat	Noman Kalim
15.	Shehzad Hasan	Sher Hassan
16.	Akbar Ali	Muhammad Akbar
17.	Muneeb Khan	Jafer Khan

SECRETARY TO GOVT: OF KHYBER
PAKHTUNKHWA, C&W DEPARTMENT

ENDST OF EVEN NO. & DATE:-

Copy for information is forwarded to:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Govt: of Khyber Pakhtunkhwa Establishment Department Peshawar.
3. Secretary to Govt: of Khyber Pakhtunkhwa Finance Department Peshawar.
4. Chief Engineer (Center) C&W Department.
5. PS to Secretary C&W Department.
6. Section Officer (E), C&W Department.
7. Official Concerned.
8. Office Order File / Personal File.
9. Master File 2022.

SO (Litigation)

(MUDASIR KHAN)
SECTION OFFICER (GENERAL)

(41)

VAKALAT NAMA

NO. _____/2023

IN THE COURT OF KP Service Tribunal, Peshawar

Abdul Saboor Khan (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

C & W Department (Respondent)
(Defendant)

I/We, Abdul Saboor Khan

Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2023

Abdul Saboor Khan
(CLIENT)

ACCEPTED

Taimur Ali Khan
TAIMUR ALI KHAN
Advocate High Court

BC-10-4240
CNIC: 17101-7395544-5
Cell No. 03339390916