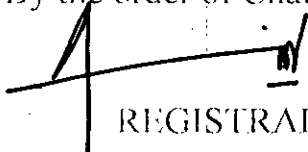


FORM OF ORDER SHEET

Court of _____

Appeal No. 2513/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/12/2023	<p>The appeal of Mst. Nasreen Bibi resubmitted today by Sardar Muhammad Asif Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on _____</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

The appeal of Mst. Nasreen Bibi legal heir Muhammad Ajmal Khan received today i.e on 20.11.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

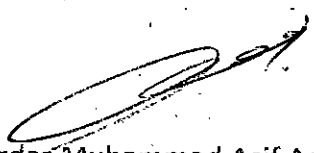
- 1- Check list is not attached with the appeal.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Address of predecessor of the appellant is incomplete which may be completed according to rule-6 of the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 4- Annexures of the appeal are unattested.
- 5- Copy of appointment order mentioned in para-1 of the memo of appeal is not attached with the appeal be placed on it.
- 6- Copy of Judgment of the Apex Court mentioned in the memo is not attached with the appeal be placed on it.
- 7- All the annexure of the appeal are illegible which may be replaced by legible/better one.
- 8- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 3630 /S.T,

Dt. 21-11 /2023.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.


Sardar Muhammad Asif Adv.
High Court A.Abad.

Pension Book Appointment Order
اعتراضات پر اسکا 8 مکمل ہو چکے ہیں اور اسکا
اور عینا پر ~~اعتراضات پر اسکا 8 مکمل ہو چکے ہیں اور اسکا~~
سیدہ ارمین خاتون کی طرف سے
اور اعتراضات پر اسکا 8 مکمل ہو چکے ہیں اور اسکا
پہلے ہی کوٹا کے فیصلہ کی کاپی عمارت میں نہیں
5/12/23

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKTUNKHWA PESHAWAR

Appeal No. 2513 /2023

Mst. Nasreen Bibi Widow of Muhammad Ajmal Khan, Sub Engineer (BPS-12), Village and P/O Nokot Tehsil and District Manshera.

...APPELLANT

Versus

The Secretary, Government of Khyber Pakhtunkhwa & Others

...RESPONDENTS

SERVICE APPEAL

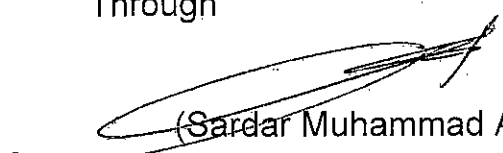
INDEX

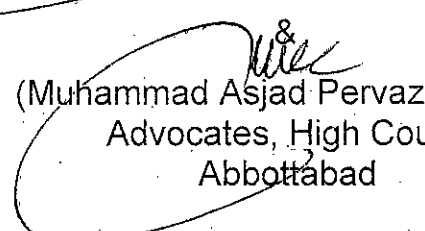
S.No.	Description of Document	Annexure	Page No.
1	Service Appeal along with affidavit.	-	1-5
2	Copy of the Appointment Order	"A"	6-7
3	Copy of the Office Order dated 25-10-2010	"B"	8-10
4	Copy of the Notification dated 07-03-2018	"C"	11- 35 ¹²
5	Copy of the judgment of Writ Petition No. 6-P/2019 dated 06-04-2021	"D"	13- 35 ³⁵
6	Copy of the Up Gradation Orders	"E"	36-40
7	Copy of the Departmental Appeal	"F"	41
8	Vakalat Nama	--	42

Nasreen
...APPELLANT

Date 20/11/22

Through


(Sardar Muhammad Asif)


(Muhammad Asjad Pervaz Abbasi)
Advocates, High Court
Abbottabad

①

Khyber Pakhtunkhwa
Service Tribunal

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKTUNKHWA PESHAWAR

Diary No. 9228
Dated 20-11-2023

Appeal No. 2513/2023

Mst. Nasreen Bibi Widow of Muhammad Ajmal Khan, Sub Engineer
(BPS-12), Village and P/O Nokot Tehsil and District Manshera.

...APPELLANT

Versus

1. The Secretary, Government of Khyber Pakhtunkhwa through Secretary C&W, Civil Secretariat, Peshawar.
2. The Chief Engineer, C&W Khyber Pakhtunkhwa Peshawar.
3. The Chief Engineer, C&W Manshera.
4. The Secretary, Government of Khyber Pakhtunkhwa, Finance department, Civil Secretariat, Peshawar.

...RESPONDENTS

APPEAL U/S-4 OF KPK SERVICE TRIBUNAL ACT, 1974 FOR GRANT OF SENIOR SCALE/ SELECTION GRADE (BS-16) TO THE LATE HUSBAND OF APPELLANT WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN DECIDED WITHIN STIPULATED PERIOD AND IMPLEMENTATION OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL JUDGMENT DATED 29-11-2021, PESHAWAR HIGH COURT DECISION DATED 06-04-2021, AND OTHER DECISION/JUDGMENTS ISSUED BY THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, BEING SIMILARLY PLACED.

Prayer:

ON THE ACCEPTANCE OF INSTANT APPEAL, THE RESPONDENTS MAY GRACIOUSLY BE DIRECTED TO GRANT SENIOR SCALE GRADE (BS-16) TO THE LATE HUSBAND OF APPELLANT WITH ALL BACK BENEFITS

②

AND HE MAY BE TREATED AT PAR WITH OTHER SIMILARLY PLACED EMPLOYEES AND THE JUDGMENTS/DECISION OF THE KPK SERVICE TRIBUNAL BE IMPLEMENTED WITH ITS SPIRIT AND ANY OTHER RELIEF WITH THE HONORABLE COURT DEEMS FIT AND NECESSARY MAY ALSO BE GRANTED IN FAVOR OF THE APPELLANT.

RESPECTFULLY SHEWETH:

The Fact and Grounds leading to the instant Appeal are as under:-

1. That, the late husband of appellant namely "Muhammad Ajmal Khan" was appointed as Sub Engineer (BS-11) on 16-03-1988 and was posted in the office of Executive Engineer, building division, Manshera. (Copy of the Appointment Order is annexed as Annexure "A")
2. That, the late husband of appellant had passed departmental professional examination and was raised at serial No. 18 vide office dated 25-10-2010 under roll No. 135. (Copy of the Office Order dated 25-10-2010 is annexed as Annexure "B")
3. That, the government of Khyber Pakhtunkhwa, Finance Department Peshawar vides notification No. SO(FR) FD/7-13/2017/6253 dated 07-03-2018, in pursuance of recommendation of up gradation committee and approval granted by competent authority, upgraded the post of Sub Engineers from BS-11/12 to BS-16 to the personal's having 10 years or more service and their credit in the same scale. (Copy of the Notification dated 07-03-2018 is annexed as Annexure "C")
4. That, in pursuance of the above mention notification, number of Sub Engineers were upgraded by the government of Khyber Pakhtunkhwa but most of the eligible employees were ignored deliberately and malafidely.
5. That, it is pertinent to mention here, the discriminated employees knocked the door of the Khyber Pakhtunkhwa Service tribunal and

whereby the appeals so filed were graciously allowed by the KPK Public Service tribunal Peshawar and thereafter up held by the apex court. (Copy of the judgment in Service Appeal No.1330/2010 dated 02-03-2016 and **Copy of the judgment of Writ Petition No. 6-P/2019 dated 06-04-2021** is annexed as Annexure "D"). Other judgments of similar nature will be provided at the time of arguments.

6. That, it is worth mentioning here, despite notification and expressive direction of the courts to extend the benefit of its judgment to other Sub Engineers who fulfill the criteria of being upgraded as senior scale grade (BPS-16), the authorities are reluctant to implement the same.
7. That, in the meanwhile the husband of appellant died.
8. That, the late husband of appellant is not only similarly placed to the Engineers upgraded by the authorities but also senior to most of the Sub Engineers. Thus, the late husband of appellant was discriminated by not being extended the same benefit. **(Copy of the Up Gradation Orders is annexed as Annexure "E")**
9. That, the appellant has filled departmental appeal against the in action of the department to upgrade appellant but despite passing of the prescribe time period has yet not been decided. **(Copy of the Departmental Appeal is annexed as Annexure "F")**
10. That, the act of the respondents is in violation of article 4 & 25 of the constitution of Islamic Republic of Pakistan 1973.
11. That, the late husband of appellant and consequently the appellant is entitled to the same relief according to the principle of consistency, equality and nature justice.
12. That, the other points will be raised with prior permission from the court as the time of hearing.

4

PRAYER

IT IS THEREFORE, HUMBLY PRAYED THAT ON THE ACCEPTANCE OF INSTANT APPEAL, THE RESPONDENTS MAY GRACIOUSLY BE DIRECTED TO GRANT SENIOR SCALE GRADE (BS-16) TO THE LATE HUSBAND OF APPELLANT WITH ALL BACK BENEFITS AND HE MAY BE TREATED AT PAR WITH OTHER SIMILARLY PLACED EMPLOYEES AND THE JUDGMENTS/DECISION OF THE KPK SERVICE TRIBUNAL BE IMPLEMENTED WITH ITS SPIRIT AND ANY OTHER RELIEF WITH THE HONORABLE COURT DEEMS FIT AND NECESSARY MAY ALSO BE GRANTED IN FAVOR OF THE APPELLANT.

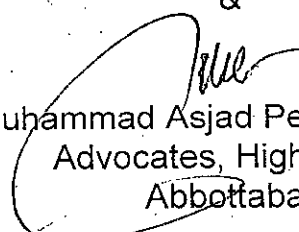
M/S
...APPELLANT

Date 20/11/22

Through


(Sardar Muhammad Asif)

&


(Muhammad Asjad Pervaz Abbasi)
Advocates, High Court
Abbottabad

VERIFICATION:-

Verification on oath that contents of the foregoing appeal are true and correct to best of my knowledge and belief and nothing concealed from this honorable tribunal.

M/S

5

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKTUNKHWA PESHAWAR

Appeal No. _____/2023

Mst. Nasreen Bibi Widow of Muhammad Ajmal Khan, Sub Engineer
(BPS-12), Village and P/O Nokot Tehsil and District Manshera.

...APPELLANT

Versus

The Secretary, Government of Khyber Pakhtunkhwa & Others

...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Mst. Nasreen Bibi Widow of Muhammad Ajmal Khan, Sub Engineer (BPS-12), Village and P/O Nokot Tehsil and District Manshera. *Appellant*, do hereby solemnly affirm and declare on Oath that the contents of instant *Appeal* are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

Dated:- _____/2023

DEPONENT

PENSION ROLL DATA SHEET & PENSION SLIP

Armo AP

Date of issue : 06.08.2013
 PPO Type : FRESH
 PPO Number : 00254513-01
 Pensioner ID : 00254513
 Pension Register No: 3839-MS
 Pensioner's Name : NASREEN BIBI
 Father / Husband name : MUHAMMAD AJMAL KHAN
 Designation : SUB-ENGINEER
 NIC No.: 6110120707050
 Grade / Scale : 11
 Department Min: Works & Services
 Pensioner's Type: SPOUSE
 Pension Type: FAMILY PENSION
 Date of Birth : 05.03.1965
 Date of appointment: 16.03.1988
 Date of retirement: 18.04.2013
 Date of Death: 18.04.2013
 Date of commencement : 19.04.2013
 Date of Restoration : 07.04.2032
 Accounts office ID : MA
 Accounts office Name : Manshra
 Federal / Province : NWFP
 Length of Qualifying Service : 25 years, 1 months, 2 days
 Old PPO Number :
 No. and Date of sanction of pension / Letter No. : CHEIF ENG
 EQAA CSW ATDNO.1780 DT.30.05.2
 and the date of the other Audit and Accounts officer authorising
 the Pension/Gratuity/Commutation
 Permanent Address: VILL \$ PO NOKOT MANSEHRA

Note:
 Age : 49 year
 Last Drawn pay/Emoluments(Rs.): 19480.00
 Gross Pension(Rs.) : 41363.33
 1/11th Surrendered Portion (Rs.) : 2840.83
 Commuted Portion (Rs.) : 0.00
 Net Pension (Rs.) :
 Net Family Pension (Rs.) : 8523.00
 Amount of Commutation(Rs.) : 647167.00
 With Held Amount (Rs.) : 0.00
 Life Time Arrears (Rs.) : 0.00
 Arrears Of Pension (Rs.) : 0.00
 Special Additional Pension (Rs.) : 0.00
 Commutation Percentage : 25.00
 Commutation Table value : 18.98
 Recovery on A/C of
 Debitable to Govt : NWFP
 Total Net Share
 Federal : 0.00 Punjab : 0.00
 Sindh : 0.00 NWFP : 0.00
 Balochistan : 0.00 Military : 0.00
 AJK : 0.00 Autonomous : 0.00

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He/She is also entitled to the following increases

Sr. No.	Period	Increase % or amount	Increase Amount	W.E.F.
1	JUL.2010	15.00 %	1278.45	19.04.2013
2	JUL.2011	15.00 %	1470.22	19.04.2013
3	JUL.2012	20.00 %	2254.33	19.04.2013
4	JUL.2013	15.00 %	2028.90	01.07.2013
5	0.	Rs. 0.00	0.00	
6				
7				
8				
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17				
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22				
23				
24				
25				
26				
27				

ATTESTED

PENSION SLIP

Month: July
 Year: 2013

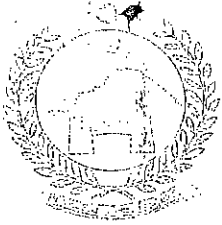
Pension roll details

Wage Type	Wage Type Text	Amount
559	Bank transfer	18005.00
0110	Monthly Pension - Family	8523.00
0111	Pension Increases, Family	7032.00
1509	Medical Allow - Pensioner	2450.00

Bank Details

Bank Account Number : 1601896
 Bank Branch : AMC
 AMC

Payment Mode : Muslim Commercial Bank



THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

وفات سرٹیفکیٹ

DEATH CERTIFICATE

CRMS No: D135046-13-0024

FORM NO: P002008335

NATURE OF DEATH: NORMAL

ستوفی کارشتہ: داوند

6110120707050

پتہ: گاؤں نوکوت، تھسلی مانسہرا، ضلع مانسہرا

مرتبہ	وجہ موت	تاریخ دفن	جائے وفات	مذہب	جنس	تاریخ پیدائش	والد کا نام / شناختی کارڈ نمبر	ستوفی کا نام / شناختی کارڈ نمبر
6	طبعی	19-4-2013	ایبٹ آباد	اسلام	مرد	5-3-1965	غلام مصطفیٰ	نور احمد خان 135034458471

APPLICANT NAME: NASREEN AJMAL

APPLICANT CNIC: 6110120707050 RELATION WITH DECEASED: Husband

ADDRESS: VILLAGE: NOKOT,

TEHSIL: MANSEHRA, DISTRICT: MANSEHRA

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
MUHAMMAD AJMAL KHAN 135034458477	GHULAM MUSTAFA	5-3-1965	MALE	ISLAM	ABBOTTABAD 18-4-2013	19-4-2013	NATURAL	6 M

BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY

NAME: MUHAMMAD NAEEM ALMASHRAQI

CNIC: 1350305073309

GRAVEYARD NAME: NOKOT

ENTRY DATE: 29-4-2013

ISSUE DATE: 29-4-2013

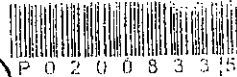
ADDITIONAL INFORMATION:

(Signature)

Union Council
Mansehra

ATTESTED

(Signature)



P02008335

7

کراچی صوبہ خیبر پختونخوا پاکستان

درخواست دہندہ کا نام: نسreen اجمل

درخواست دہندہ کا شناختی کارڈ نمبر: 6110120707050

پتہ: گاؤں نوکوت، تھسلی مانسہرا، ضلع مانسہرا

ستوفی کا نام /
شناختی کارڈ نمبر
نور احمد خان
135034458471

REASON
OF DEATH
NATURAL
SICKNESS
PERIOD
6 M

اقربا کی طرف سے
محمد نسیم المشرقی
شناختی کارڈ نمبر:
1350305073309
پڑوسی کا نام: نوکوت
پتہ: گاؤں نوکوت،
تھسلی مانسہرا،
ضلع مانسہرا

COMMUNICATIONS
KHYBER PAKHTUNKHWA, PESHAWAR

No. 57-G / 434 / CE / C&WD

Dated Peshawar the 25 / 10 / 2010

Anna B 8

OFFICE ORDER

The following Assistant Engineers/Sub Engineers/Road Inspectors of the Communication & Works Department, are hereby declared to have passed the Departmental Professional Examination held during July 2010 -

Sl No.	Roll No.	Name of Candidate	Designation	Office / Present Posting of Candidate	Remarks
1.	102	Shafiq-ur-Rehman	Assistant Engineer	Xen C&W Mohmand Agency.	Passed
2.	105	Zain-ul-Abideen	Sub Engineer	Xen C&W Division Swabi.	Passed
3.	111	Muhammad Akram	Sub Engineer	Xen C&W Division Mansehra.	Passed
4.	113	Aurang Zeb	Sub Engineer	Xen C&W Division Mansehra.	Passed
5.	117	Naqeeb Ullah Khattak	Sub Engineer	Xen C&W Division Mansehra.	Passed
6.	119	Saif-ur-Rehman	Sub Engineer	Xen Highway SWA Tank.	Passed
7.	120	Hayat Ullah Khan	Sub Engineer	Xen C&W Orakzai at Hangu.	Passed
8.	124	Khurshid Iqbal	Assistant Engineer	Xen C&W Division Mansehra.	Passed
9.	125	Amir Jamal	Assistant Engineer	Xen C&W Division Mansehra.	Passed
10.	126	Tufail Ahmad	Assistant Engineer	Chief Engineer (CDO) Pesh.	Passed
11.	127	Muhammad Zahir Shah	Sub Engineer	Managing Director FHA Pesh.	Passed
12.	128	Tariq Usman	Assistant Engineer	FAP Directorate Peshawar.	Passed
13.	129	Naveed Iqbal	Assistant Engineer	Xen Prov Bldg (Const) Divn-I	Passed
14.	131	Adnan	Assistant Engineer	Managing Director FHA Pesh.	Passed
15.	132	Ghulam Hussain	Sub Engineer	Xen C&W Division Charsadda.	Passed
16.	133	Shams-ul-Camar	Sub Engineer	Xen C&W Division Kohat.	Passed
17.	134	Sadiq Ullah Khan	Sub Engineer	Xen C&W Division Hangu.	Passed
18.	135	Muhammad Ajmal	Sub Engineer	Xen C&W Division Mansehra.	Passed
19.	136	Naik Muhammad	Sub Engineer	Xen C&W Highway Kurram.	Passed
20.	137	Shakeel Hussain	Sub Engineer	Xen C&W Highway Kurram.	Passed
21.	138	Ibrar Hussain	Sub Engineer	Xen Building Division Kurram.	Passed
22.	140	Amir Muhammad	Sub Engineer	Xen C&W FR-Bannu.	Passed
23.	141	Muhammad Shah	Sub Engineer	Xen C&W Division Hangu.	Passed
24.	142	Imdad Hussain	Sub Engineer	Xen C&W Division Kohat.	Passed
25.	143	Shakir Kamal	Sub Engineer	Xen C&W Division Kohat.	Passed
26.	145	Zahid Ullah Khan	Sub Engineer	Xen C&W Division Kohat.	Passed
27.	146	Muhammad Aslam	Sub Engineer	Xen Fr-Tank/D.I.K. at D.I.Khan.	Passed
28.	151	Muhammad Nasir	Sub Engineer	Xen C&W Division Karak.	Passed
29.	152	Muhammad Asif Imran	Assistant Engineer	Xen C&W Division Karak.	Passed
30.	153	Wajid Ali	Sub Engineer	Provincial Inspection Team	Passed
31.	154	Qudrat Ullah Khan	Assistant Engineer	Xen Highway Division Mardan	Passed
32.	157	Salim Khan	Sub Engineer	Xen FR-Bannu/Lakki at Bannu.	Passed
33.	158	Asad Ali	Assistant Engineer	Xen C&W Division Kurram Agy.	Passed
34.	159	Roidar Alam	Sub Engineer	Xen Bldg: Divn: Bajaur at Khar.	Passed
35.	160	Sultan Zaib	Sub Engineer	Xen Bldg: Divn: Bajaur at Khar.	Passed
36.	161	Muhammad Zubair	Assistant Engineer	Xen C&W (Bldg) Divn: Bannu.	Passed
37.	163	Syed Hassan	Sub Engineer	Xen C&W Divn: Dir Lower.	Passed
38.	166	Inayat Ullah	Sub Engineer	Xen C&W Division Lakki.	Passed
39.	170	Arshad Ali Shah	Sub Engineer	Xen C&W Division Mardan.	Passed
40.	172	Fayaz Gul	Sub Engineer	Xen C&W Division Mardan.	Passed
41.	176	Muhammad Sajid	Assistant Engineer	Xen Prov Bldg (Const) Divn-I.	Passed
42.	177	Zahid Ullah	Sub Engineer	Xen C&W Division Kohat.	Passed

(Contd. on page-2)

TESTED

Handwritten signature/initials

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Sl No	Roll No.	Name of Candidate	Designation	Office / Present Posting of Candidate	Remarks
43.	178	Sabir Hussain.	Sub Engineer	Xen Highway Khyber Agency.	Passed
44.	181	Badrui Islam.	Sub Engineer	Xen Highway Bajaur Agency.	Passed
45.	182	Amirullah Khan.	Road Inspector	Xen C&W Division Bannu.	Passed
46.	184	Imran Hussain.	Assistant Engineer	Xen Highway Division Mardan.	Passed
47.	186	Muhammad Ali Khan.	Assistant Engineer	Xen FR-Peshawar/Kohat.	Passed
48.	189	Nisar Ahmad.	Sub Engineer	Xen Highway NWA Miranshah.	Passed
49.	190	Muhammad Wazeer.	Sub Engineer	Xen C&W Division Dir Lower.	Passed
50.	193	Shah Room.	Sub Engineer	Xen C&W Division Dir Lower.	Passed
51.	199	Riaz Ahmad.	Sub Engineer	Xen C&W Division Kohat.	Passed
52.	200	Zia Jan.	Sub Engineer	Xen C&W Division Charsadda.	Passed
53.	206	Muhammad Iqbal-VI.	Sub Engineer	Xen C&W Division Swat.	Passed
54.	207	Hamid Ullah.	Sub Engineer	Xen C&W Division Lakki Marwal.	Passed
55.	208	Ghani Ullah.	Sub Engineer	Xen Building NWA Miranshah.	Passed
56.	209	Hashim Khan.	Sub Engineer	Xen Building Khyber Agency.	Passed
57.	210	Khalid Naeem.	Sub Engineer	Xen C&W Division Mansehra.	Passed
58.	211	Zahid Amin.	Sub Engineer	Xen C&W Division Abbottabad.	Passed
59.	213	Mashoor Khan.	Sub Engineer	Xen C&W Division Abbottabad.	Passed
60.	214	Saleem-ur-Rehman.	Sub Engineer	Xen C&W Division Abbottabad.	Passed
61.	215	Tariq Ali.			Passed
62.	220	Tariq Hussain.	Sub Engineer	Xen C&W Bldg. Division Swat.	Passed
63.	225	Tariq Hussain.	Sub Engineer	Xen C&W Division Mansehra.	Passed
64.	229	Aurangzeb.	Sub Engineer	Xen C&W Division Malakand.	Passed
65.	231	Soahil Idrees.	Assistant Engineer	Xen Prov Bldg (Const) Pesh.	Passed
66.	232	Ali Rehman.	Sub Engineer (Now SDO OPS)	Xen C&W Division Malakand.	Passed
67.	233	Manzoor Elahi.	Sub Engineer	Xen Bldg Division-2 Pesh.	Passed

The following Candidates have been placed in COMPARTMENT in the subjects noted against their names and will have to re-appear in the said papers :-

Sl No	Roll No.	Name of Candidate	Designation	Office / Present Posting of Candidate	Compart Subjects
1.	103	Rab Nawaz Khan.	Sub Engineer	Xen C&W Division Swabi.	PWD Code
2.	106	Shaukat Ali.	Sub Engineer	Xen Highway Division Pesh.	Accounts
3.	108	Liakat Ali.	Assistant Engineer	Xen C&W Division Haripur.	Accounts
4.	112	Irshad Ahmad.	Sub Engineer	Xen C&W Division Mansehra.	Accounts
5.	115	Muhammad Naeem.	Sub Engineer	Xen C&W Division Mansehra.	Professional
6.	118	Muhammad Ajmal Khan.	Sub Engineer	Xen Prov Bldg (Const) Divn-II.	PWD Code
7.	162	Uabid Ullah.	Sub Engineer	Xen C&W Division Karak.	Accounts
8.	175	Syed Atiq-ur-Rehman.	Asstt: Engr. OPS	Xen C&W Division Dir Upper.	Prof. & Accounts
9.	185	Alamgir Khan.	Road Inspector	Xen C&W Division Malakand.	Accounts
10.	187	Noor-ul-Amin.	Sub Engineer	Xen Bldg Division-2 Peshawar.	Accounts
11.	197	Raj Muhammad.	Sub Engineer	Xen FR-Pesh/Kohat at Kohat.	Accounts & Code
12.	198	Ahsan Rafiq.	Sub Engineer	Xen FR-Pesh/Kohat at Kohat.	Accounts & Viva
13.	205	Habib-ur-Rehman	Sub Engineer	Xen C&W Division Swat.	Professional
14.	212	Muhammad Niaz.	Sub Engineer	Xen C&W Division Mansehra.	Accounts
15.	221	Rooh-ul-Amin.	Sub Engineer	Xen C&W Division Ballagram.	Accounts & Code
16.	223	Muhammad Shakeel.	Sub Engineer	Xen C&W Division D.I.Khan.	Professional

(Contd: on page-3)

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The following Assistant Engineers/Sub Engineers/Road Inspectors having not passed the said Examination and as such declared as FAILED :-

Sl No	Roll No.	Name of Candidate	Designation	Office / Present Posting of Candidate	Remarks
1.	104	Tariq Muhammad.	Sub Engineer	Xen C&W Division Swabi.	Failed
2.	107	Zahoor Elahi Baig.	Sub Engineer	Xen C&W Division Haripur.	Failed
3.	116	Muhammad Jamil.	Sub Engineer	Xen C&W Division Mansehra.	Failed
4.	139	Sikandar Javed.	Sub Engineer	Xen C&W Fr-Bannu/Lakki.	Failed
5.	144	Samiullah.	Sub Engineer	Xen C&W Division Kohat.	Failed
6.	147	Mian Mushtaq-ur-Rehman.	Sub Engineer	Xen C&W Division Bannu.	Failed
7.	148	Rafiullah Khan.	Sub Engineer	Xen Highway Division Bannu.	Failed
8.	149	Malik Nawaz.	Sub Engineer	Xen C&W (Bldg) Division Bannu.	Failed
9.	156	Abdullah Khan.	Sub Engineer	Xen C&W Division Karak.	Failed
10.	165	Shahid Ali Shah.	Sub Engineer	Xen H/Way SWA at Tank.	Failed
11.	168	Shafqat Ullah.	Sub Engineer	Xen C&W Division Mardan.	Failed
12.	169	Fazal Rabbi.	Asstt. Engr. OPS	Xen C&W Division Dir Upper.	Failed
13.	174	Muhammad Shafiq.	Sub Engineer	Xen Bldg Division-1 Peshawar.	Failed
14.	183	Roidar Muhammad.	Road Inspector	Xen C&W Division Dir Lower.	Failed
15.	194	Muhammad Ismail.	Sub Engineer	Xen C&W Division Battagram.	Failed
16.	195	Tariq Hussain Shah.	Sub Engineer	Xen C&W Division Battagram.	Failed
17.	196	Muhammad Iqbal.	Sub Engineer	Xen C&W Division Charsadda.	Failed
18.	202	Naeem Jan.	Sub Engineer	Xen C&W NWA Miranshah.	Failed
19.	203	Yaqoob Khan.	Sub Engineer	Xen C&W Division Hangu.	Failed
20.	204	Zahoor Ahmad.	Road Inspector	Xen C&W Division Charsadda.	Failed
21.	217	Misbah Ujjah.	Road Inspector	Xen C&W Division Dir Upper.	Failed
22.	218	Mukhtiar Hussain.	Sub Engineer	Peshawar.	Failed
23.	219	Irshad Ahmad Khan.	Sub Engineer	Xen C&W Division Haripur.	Failed
24.	227	Syed Jafar Shah.	Sub Engineer	Xen C&W Divn. Mohmand Agy.	Failed
25.	228	Muhammad Abul Khair.	Sub Engineer	Xen C&W Division Malakand.	Failed
26.	230	Bakhshi Badshah.	Sub Engineer	Xen Bldg Division-2 Peshawar.	Failed
27.	234	Iftexhar Babar.	Sub Engineer		

(Engr. Usman Khan)
CHIEF ENGINEER

Copy forwarded to the :-

- 1) Secretary to Govt. of Khyber Pakhtunkhwa, C&W Department Peshawar.
- 2) All Chief Engineers in C&W Department (i/c FATA & PERRA).
- 3) Managing Director Frontier Highways Authority Peshawar.
- 4) Engr. Abdul Samin Khan Principal Examiner & Director (Maintenance) Frontier Highways Authority Peshawar.
- 5) Superintending Engineer Provincial Building (Construction) Peshawar.
- 6) Superintending Engineer PBMC, C&W Department Peshawar.
- 7) All Superintending Engineers in C&W Department.
- 8) All Executive Engineers in C&W Department (i/c FATA).
- 9) All District / Agency Accounts Officers in Khyber Pakhtunkhwa.

CHIEF ENGINEER

ATTES



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. SEC/FR/17-13/2017/6263
Date of Issuance: 07.03.2018

NOTIFICATION

NO. FD/ISO(FR)7-13/2017/6263. In pursuance of recommendations of the upgradation committee and approval granted by Competent Authority, sanction is hereby accorded to the upgradation of the post of Sr. Engineer from BPS-11/12 to BPS-16 (one time) as personal to the incumbent having 10 years or more service at their credit in the same scale in all the Government Departments of Khyber Pakhtunkhwa with immediate effect.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Encl No. & Date even.

Copy of the above is forwarded for information and necessary action to the:

1. PS to Additional Chief Secretary, FATA
2. All Administrative Secretaries Government of Khyber Pakhtunkhwa
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa Peshawar
4. Accountant General, Khyber Pakhtunkhwa, Peshawar
5. Secretary to Governor, Khyber Pakhtunkhwa, Peshawar
6. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
7. Secretary Provincial Assembly, Khyber Pakhtunkhwa
8. All Heads of Attached Departments in Khyber Pakhtunkhwa
9. Registrar, Peshawar High Court, Peshawar
10. Registrar, Service Tribunal, Khyber Pakhtunkhwa
11. The Treasury Officer, Peshawar.
12. All District Agency Accounts Officers in Khyber Pakhtunkhwa / FATA
13. Director, Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
14. PS to Finance Secretary
15. All Section Officers/Budget Officers in Finance Department

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Advocate

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SECTION OFFICER (FR)

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

No. SO(FR)FD/7-13/2017/0253

Dated Peshawar the 07.03.2018

NOTIFICATION

No. FD.SO(FR)7-13/2017/6253. In pursuance of recommendations of the up gradation committee and approval granted by Competent Authority/Sanction is hereby accorded to the upgradation of the post of Sub-Engineer from BPS-11/12 to BPS-16 (one time) as personal to the incumbent having 10 years or more service at their credit in the same scale in all the Government Department of Khyber Pakhtunkhwa with immediate effect.

**SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

Endst No. & Date even

Copy of the above is forwarded for information and necessary action to the:-

1. PS to Additional Chief Secretary FATA.
2. All Administrative Secretaries Government of Khyber Pakhtunkhwa.
3. Senior Member, Board of Revenue Khyber Pakhtunkhwa.
4. Accountant General, Khyber Pakhtunkhwa Peshawar.
5. Secretary to Governor, Khyber Pakhtunkhwa Peshawar.
6. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. Secretary Provincial Assembly, Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. Registrar, Peshawar High Court, Peshawar.
10. Registrar, Service Tribunal Khyber Pakhtunkhwa.
11. The Treasury Officer, Peshawar.
12. All District / Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
13. Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
14. PS. to Finance Secretary.
15. All Section Officers / Budget Officers In Finance Department.

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SECTION OFFICER (FR)

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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 Raza, Rizwanullah and Abdul Salim, Advocates

Mr. Muhammad Adeel Butt,
Additional Advocate General
Nemo

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

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

For appellant(s)

For official respondents
For private respondents

Chairman
Member (Judicial)
Member (Executive)

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 Naccm-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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EXAMINER
Khyber Pakhtunkhwa

24/12/2013

- (9) 1184/2013 titled Abdul (Jayyid)-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 Labib 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) 1634/2013 titled Muhammad Shakeel Athar -vs- Secretary C & W KPK etc.
- (23) 1632/2013 titled Malik Arif Saeed Djal-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 Saeed-vs-Govt. of KPK through Secretary C & W etc.
- (26) 96/2014 titled Zahid 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 Rahim-vs-Govt. of KPK through Secretary C & W etc.
- (29) 365/2014 titled Zulfikar Ahmad-vs-Govt. of KPK through Secretary C & W etc.
- (30) 366/2014 titled Naseem 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-Bihar-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 Khali-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 Noor-ul-Basar -vs- Govt. of KPK through Secretary C & W etc.
(46) 920/2014 titled Sabit Khan -vs- Govt. of KPK through Secretary C & W etc.
(47) 1035/2014 titled Manzoor Haqi -vs- Govt. of KPK through Secretary C & W etc.
(48) 1100/2014 titled Fazal Mehmood-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 Naeem 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.

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 Ahbeullah, Tariq Usman s/o Noor Zahib Khan, Muhammad Javed Rahim s/o Abdul Rahim and Jamshid Khan-I s/o Saif-ur-Rehman. According to his stance the respondents were granted Senior Scale and appellant ignored despite the fact that he was senior and fit and fulfilling the prescribed criteria.

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

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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 Eaqbal Khan has prayed for grant of BPS-16 as per rules with all consequential benefits from the date as he has qualified the prescribed examination and rendered more than 10 years service.

5. In appeal No. 845/2013, appellant Saeedullah 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 Chaham 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. Despite his entitlement to the said scale and judgment of this Tribunal in service appeal

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S. K. KHAN
Secretary

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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.

In appeal No. 1223/2015, appellant Sardar Naeem 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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Khalid Ahmad
Secretary

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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.

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

02/03/16

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal

ATTESTED

24/12/23

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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.

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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 Adm. 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:

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MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
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-I(S&GD)I-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.

AS
02-03-16


1. (1) These rules may be called the Communication and Works Department (Recruitment and Appointment) Rules, 1979.
- (2) They shall come into force at once.

ATTESTED

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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ATTESTED


SECRETARY
Services General,
Peshawar

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COMMUNICATION & WORKS DEPARTMENT
SCHEDULE-I

S.NO.	Nomenclature of post	Minimum Qualifications for Appointments		Age for initial Recruitment		Method 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 per cent of the total number of posts of diploma holder Sub-Engineers from the cadre Senior Scale Engineers and be filled by selection on merit with regard to seniority from amongst Engineers of Department, have passed Departmental Examination have at least years service as
6 and onwards	<i>Irrelevant</i>					

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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.

02-03-16

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 manners on or before December 1, 2001.

ATTESTED

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)ED/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:

24/12/25

ATTESTED

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

SECRETARY

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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.

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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.

24/12/15

ATTESTED

MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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.

02.03.16

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.

APPEALS

EXAMINER
Khyber Pakhtunkhwa
Civil Servants

ATTESTED

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

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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/leftover 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.

22.03/16

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 1996 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 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.

ATTACHED

SD/
(PIR BAKHSII SHAI)
MEMBER

SD/
(MUIJAN AHMAD AZIM KHAN AFRIDI)
CHAIRMAN

SD/
(ABDUL LATIF)
MEMBER

Certificate copy
Registrar
Service Tribunal,
Peshawar

24/2/16

ANNOUNCED
02.03.2016

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1

In The Peshawar High Court, Peshawar.

Constitutional Petition No. 6-P/2019.



1. Mr. Zewar Din S/O Rehman Ud Din R/o Municipal Colony Street No. 2 Mohalla Ranim Kohat Road Peshawar (Sub-Engineer) Retired, Provincial Building Construction Division No. 11 Peshawar.
2. Waheed Ahmad (Sub Engineer) S/o Umar Bakhsh R/O House No. 1913 Mohalla Kakye Khelan Yakatoon Peshawar.
3. Mushtaq Ali (Sub-Engineer) S/O Sherin Gul R/O Village Hason Khel Post office & Tehsil Mir Ali North Waziristan.
4. Amrat Ullah (TI) S/O Hameed-Ullah R/O Street No 2 Mohalla Qadoos Abad, Road D.I. Khan.
5. Hafeez Ur Rehman S/O Habib-Ur-Rehman R/o Aziz Abad Murshad Abad Kohat road Peshawar.
6. Muhammad Nazem Ill S/O Muhammad Ashraf R/o House No 4283 Street No 3 Kakshai Peshawar.
7. Iftikhar Babar S/O Fazal Ilahi Babar R/O Peshawar Model Town Warsak Road, Street No. 2 Peshawar.
8. Muhammad Shukat S/O Abdur Rehman R/O Chakeer Road Tanki Mar, Mohalla Naor Pur Mansehra.
9. Irtisad Ahmad Khan S/O Sardar Kala Khan R/O Changa House Sardar Street Javeed Shaheed Road Mandian Abbot Abad.
10. Muhammad Sajjad (Sub Engineer) S/O Abdul Haleem R/O House No 4421 Mohalla Afridi Khan Tehsil & District Peshawar.
11. Inayat Ur Rehman S/O Muhammad Ismail R/O Ziarat Basha Post Office Khas Timergara District Lower Dir.
12. Muhammad Iqbal S/O Fazal Malik R/O House No 119 Street No 7 Sector 3 Phase IV Hayat Abad Peshawar.

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EXAMINED
Peshawar High Court

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Advocate
26/2/2019

13. Ibad Ullah S/O Muhammad Karim Mohalla Piran Village
Utmanza Tehsil & District Charsadda.
14. Muhammad Hayat S/O Noman Kalim R/O Mohalla Saran
Ghari Village Utmanza Tehsil & District Charsadda.
15. Shahzad Hasan S/O Sher Hasan Khan R/O Private House No
-3 Civil Colony Kohat road Peshawar.
16. Akbar Ali S/O Muhammad Akbar R/O Hafiz abad Manga
Dargai Tehsil & District Charsadda.
17. Muneeb Khan S/O Jafar Khan R/O Ekka Ghund Tehsil Ekka
Ghund District Mardan.

(Petitioners)

Versus

1. Government of Khyber Pakhtoon khwa Through Secretary
Communication & Works Department Peshawar.
2. Chief engineer (Centre) C & W KPK Peshawar..... (Respondents)

Constitutional Petition under Article 187(2) read with Article
19(1)(a) of the Constitution of Islamic Republic Of Pakistan.

Prayer:

On acceptance of this Constitutional Petition a writ may be issued:

1. Directing the Respondents to grant Senior Scale Grade BS-16 /
to the Petitioners with effect from 04-09-2003 as is granted to other sub-
Engineers even juniors to them vide dated Peshawar April
2018 Notification No SOE/C&WD/4-2/2018 in pursuant of the
Khyber Pakhtoonkhwa Service Tribunal Judgment dated
13-02-2016 upheld by Supreme Court of Pakistan vide its order
dated 13-02-2017 in P.No- 223-P/303 and 493-P of 2016.
2. Any other relief which this Honourable Court may deem just in
the circumstances.

ATTESTED
EXAMINER
Peshawar High Court

ATTESTED
for by this order
dated 13/2/2017

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Respectfully Sheweth:- The need for the instant Constitutional Petition arises due to the following facts:-

Facts:-

1. That the Petitioners are sub Engineers in the Respondant department and have passed the Grade B Departmental examination before 2001, the time when the senior scale Grade Bs 16/Selection Grade as per policy of the Provincial Government was allowed..... (Copy of result 1988 and CVs is attached as Annexure A at page No 11).
2. That the Government of Khyber Pakhoonkhwa (NWFP) services and General Administration , Tourism & Sports Department on 13th January made for the C&W Department (Recruitment and Appointments; Rules 1979) in accordance to which the qualification for the Senior scale Sub Engineer was held Diploma in Engineering from a recognized Institute and 25% of the total number of posts of the Diploma holder Sub Engineer shall be from the cadre of senior scale sub engineers and shall be filled on merit with due regard to seniority.
3. That the Petitioners were eligible for senior Scale BS-16 but avoided to engage the Respondent Departments in litigation and were expecting the initiation of such grant of Senior Scale Grade on their turn by the Respondents themselves but nothing was done. A total 52 number of the sub engineers disappointed with the conduct of the Respondents filed appeals which were clubbed and the full Bench of the KPK Service Tribunal (consisting of three members) with certain terms including extending the benefits of the Judgment in its paras No 29,30 and 31 to those sub Engineers who filled the criteria at the relevant time was accepted and dispose off. (Copy of Judgment is attached as Annexure B at page No 28).

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Advocate
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EXAMINER
Peshawar High Court

4. That The Respondents filed Civil Petitions No 223-P,303-P to 353; 391-P to 394 -P and 493 of 2016 in the Supreme Court of Pakistan through Appellate jurisdiction.

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dismissed without granting leave asked for, declaring it without merit on 13.2.2017.....(....Copy of Judgment dated 13.2.2017 is attached as annexure C at page No 43)

5. That the Dictum of both the Judgments are based on the principle laid down in the case of Hamed Akhtar Niazi, 1996 SCMR 1185 and Sameena Perveen, 2009 SCMR 1. In both these cases, the august Supreme Court of Pakistan has observed that if a tribunal or a court of law decides a point of law relating to the terms and conditions of service of a civil servant which covers not only the case of a civil servant who litigated but also of other civil servants who may have not taken any legal proceedings. In such a case the dictates of good governance demand that the benefits of such judgment 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.

6. That in pursuance of the judgment of the KPK Service tribunal been upheld by the august court the Respondents issued a notification granting the Senior scale Bs-16 to all those who were party to the litigation but ignored the Petitioners, been senior to them but were not party to the litigation.(Copy of Notification dated Peshawar the April 30, 2018 is attached as annexure D at page No. 47)

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EXAMINER
Peshawar High Court

7. That feeling aggrieved of the conduct of the Respondents for ignoring the ruling of the August Court of Pakistan, the Petitioners made Representations to the Secretary C&W Department KPK Peshawar which is processed through C & W Department various sections with the opinion that the petitioners are eligible and are not involved in any criminal activities, and even the Secretary C&W recommended the Petitioners for senior Scale grade as they been eligible at the relevant time and even the opinion of the law department of the KPK was invited but it was delayed and at the end the Respondents regretted the representation on the ground that the Policy of the selection grade has since been discontinued by the Provincial Government. Needless to mention some of them got retired during this time. All over ...

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Advocate
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and opinions etc. with impugned order is attached as Annexure E at page No 49.)

8. That the issue in hand is in respect of the interpretation of the ruling of the august court with the proposition either it is to be implemented by the Respondents or to be again litigated by the aggrieved civil servant. Further when the Service Tribunal and the august Supreme Court of Pakistan has held that those who were eligible before the policy is discontinued then why the Petitioners been eligible at that time are ignored.

9. That though the Petitioners are civil servant but the issue relating to the terms and conditions of the Petitioners is settled and this Petition is not in respect of the terms and conditions of a Petitioner but the issue is that the respondent is not implementing the Ruling of the august court which is unconstitutional.

Being aggrieved as the Judgment of the August Supreme court of Pakistan is not extended to the petitioners and with no alternate adequate remedy available so far this Constitutional Petition is preferred on the following grounds.

Grounds:

A. That by not implementing the judgment of the august court by the Respondent department in the form of extending the same relief to the Petitioners is a conduct against the law, without lawful authority and without jurisdiction and the mandate of Article 187(2) of the Constitution demands the interference of this Honourable Court.

B. That as per Article 5 of the Constitution of the Islamic republic of Pakistan the obedience to law and Constitution is obligation of every citizen and the decision of the august court has the force of law and is binding on all state institution.

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Advocate

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EXAMINER
Peshawar High Court

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C. That once the august court gives any verdict the state institutions are duty bound to obey it without any hesitation and in case of non obedience the loyalty of that person to the state is in doubt.

D. That sub clause 2 of Article 187 in very clear terms lays down that the directions, order or decree issued by the August court is enforceable throughout Pakistan and be executed without any delay.

E. That the Petitioner case is within the parameters mentioned in the KPK Service Tribunal judgment and the judgment of the august Court of Pakistan in respect of relevant time and eligibility/ criteria consequent thereof is entitled to the same relief as per ruling of the august court of Pakistan.

F. That the reasons given for none extending the benefits of the judgments in the impugned order is unreasonable as this issue is solved in the judgment and the Petitioner was eligible before the policy was discontinued.

Therefore it is Prayed that this constitutional Petition may be admitted and allowed with a prayer above.

Petitioners

Through

[Signature]

Gauham Mahi Ud-Din, Malik
Advocate Supreme Court of Pakistan.
Cell# 03339129616
Muhammad Farooq Malik
Advocate Peshawar High Court.

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EXAMINER
Peshawar High Court

[Signature]
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ATTESTED

Constitutional Petition No. 2019 of 2019 P.S. 25 of 2019 USB 73 pages

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Advocate
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Certificate

This is certified that the Petitioners have not filed any other Constitutional/writ petition in respect of the same subject matter before this Honourable court.

[Signature]
Petitioners

Books recommended:

1. The Constitution of Islamic Republic of Pakistan, 1973.
2. Case law mentioned in the judgments of both forums

[Signature]
Petitioners

Through

[Signature]

Ghulam Mahj-Ud-Din. Malik
 Advocate Supreme Court of Pakistan.
 Cell# 03339129636
 Muhammad Farooq Malik *[Signature]*
 Advocate Peshawar High Court.
 Cell# 03149008308

[Signature]
 .EXHIBIT TO BE TRUE COPY
 General High Court, Peshawar
 Authorized Under Article 213
 of the Constitution of Pakistan
 12 APR 2021

[Signature]
24/3/22

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[Signature]
 24/3

**PESHAWAR HIGH COURT PESHAWAR
ORDER SHEET**

(24) 34



Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2
06.04.2021	<p>CM No. 06-P/2019 with CM No. 01-P/2021.</p> <p>Present: Mr. Ghulam Mohy-ud-Din Malik, advocate for the petitioners.</p> <p>Mr. Mujahid Ali Khan, Addl. AG on behalf of respondents alongwith Toufeeq DS and Malik Muhammad Ali SO (lit) C&W.</p> <p style="text-align: center;">*****</p> <p><u>LAL JAN KHATTAK:-</u> Through the petition in hand under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, the petitioners have prayed for issuance of a writ to the following effect:-</p> <p style="padding-left: 40px;">Direct the respondents to grant senior scale grant BS-18 to the petitioners w.e.f. 04.09.2003 as is granted to other sub-engineers even Juniors to them vide notification No. SOE/C&W/4-2/2018 dated 30th April, 2018, in pursuance of the decision of Khyber Pakhtunkhwa Service Tribunal judgment date 02.03.2016 upheld by the apex Court in CP No. 223-P/303 to 353 & 483-P of 2016 dated 13.02.2017.</p> <p>2: At the very outset, learned counsel for the petitioners submitted at the bar that he would not press this petition anymore if directions are given to the respondents to consider the petitioners' grievance and resolve the same at their end to which the learned Addl.</p>

lgow

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EXAMINER
Peshawar High Court

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to the Court
Advocate

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hand by directing the respondents to consider the petitioners' grievance brought by them before this Court in light of the judgment delivered by the Khyber Pakhtunkhwa, Services Tribunal dated 02.03.2016, which has been upheld by the Hon'ble Supreme Court of Pakistan vide judgment dated 13.02.2017, with further direction that while deciding the petitioners' grievance recourse be also made to the letters available at pages 55, 57 & 58 of this petition. It will be appreciated if the referred exercise is undertaken by the respondents within a period of two months from today.

JUDGE

JUDGE

12 APR 2021
 AUTHORIZED TO BE TRUE COPY
 OF THE DOCUMENTS FILED IN ORDER 199

No. 326911
 Date of Presentation of Application 06/11/2021
 No of Pages 9-12
 Copying fee
 Total 36/-
 Date of Preparation 12/11/2021
 Date of Delivery of Copy 12/11/2021
 Received By

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 of the document

29/12

29/12/21



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/13-1/2012
Dated Peshawar, the Dec 10, 2018

Anna E

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To: The Chief Engineer (Centre)
C&W, Peshawar

Subject: GRANT OF SENIOR SCALE SUB ENGINEER (BS-16) ON THE BASIS
10 YEARS SERVICE + B.GRADE PASSED EXAMINATION

I am directed to refer to the subject noted above and state that Khyber Pakhtunkhwa Service Tribunal vide judgment dated 02.03.2016 in Service Appeal No.1330/2010 allowed large number of Sub Engineers Senior Scale (BS-16) with retrospective effect with the directions that the benefit of this judgment be extended to those Sub Engineers who fulfilled the criteria of becoming Senior Scale at the relevant time. In this regard Mr. Zewer Din Sub Engineer & 31 others have also fulfilling criteria for Senior Scale (BS-16) in light of the Service Tribunal judgment (copy enclosed for ready reference).

2. Since the appeals are based on the court order, as such the Law Department also advised (copy enclosed), with the request to furnish the following documents/information in respect of the eligible 32 Nos Diploma Holder Sub Engineer within 03 days positively:-

- i. Synopsis of ACRs of the Sub Engineers (list attached)
- ii. Certificate regarding non-involvement of departmental/judicial inquiry against the officials, neither involved in any NAB case nor entered into plea bargain with National Accountability Bureau (NAB) prior to 2003, the date on which their Juniors were awarded Senior Scale/Selection Grade (BS-16).

(ABDUR RASHID KHAN)
SECTION OFFICER (Estb)

Encl. even No. & date

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

SOE
20.12.18

SECTION OFFICER (Estb)

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Government of Khyber Pakhtunkhwa
Law, Parliamentary Affairs &
Human Rights Department

No. SO(OP-II)/L.D/15-2/2012-VOL-V
Dated: Peshawar, 14 September, 2018

(1)

R/W.P.58

To: The Secretary to Govt. of Khyber Pakhtunkhwa,
Communication & Works Department.

Attention: Section Officer (Estt)

Subject: Grant of Senior Scale Sub Engineer (BS-10) 10 Years Service + B Grade
Passed Examination

Dear Sir,

I am directed to refer to your Department's letter No. SOE(C&WD)13-1/2012 dated 10/09/2018 on the subject noted above and to state that as the applicant Zawal Din (Sub Engineer) named is not included in the list of applicants in the Service Appeal No. 1330/2010, hence the instant case covered under the Rule of good governance as incorporated in the dictum of Apex Court, 1996 SCMR 1185 in titled case Hameed Akhtar Niazi Vs. Secretary Establishment, Division Govt. of Pakistan and others. The Service Tribunal Khyber Pakhtunkhwa in above mentioned Service Appeal in its Judgement dated 02-03-2016 at para 30 directed as "though adequate number of 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 claim. We therefore direct that benefits of this Judgement be extended to those sub engineer who fulfilled the criteria becoming senior scale sub engineer at the relevant time" and circulated directions to the Provincial Government for guidance and compliance among all the Government Department.

Hence, the Administrative Deptt. may examine the case that whether the (non litigant) applicant who filed the representation similarly placed persons to those of the petitioners in the Judgement of Service Tribunal dated 02-03-2016 in compliance of which their orders for senior Scale Stenographer were issued or otherwise and the comparison is to be made on the basis of apple to apple (like for like comparison).

Yours faithfully,

Section Officer (Opinion-II)

Encl: of ever No. date
Copy is forwarded to the PS to Secretary, Law Department.

Section Officer (Opinion-II)

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Government of Khyber Pakhtunkhwa
Law, Parliamentary Affairs &
Human Rights Department

No. SO(OP-II)LDHS-22012-VOL-V/31582-23
Dated: Pesh 18 September, 2018

To
The Secretary to Govt. of Khyber Pakhtunkhwa,
Communication & Works Department.
Attention: Section Officer (Esib)
Subject: Grant of Senior Scale Sub Engineer (BS-16) 10 Years Service + B-Grade
Passed Examination

Dear Sir,
I am directed to refer to your Department's letter No.SOE(CAWD)13-1/2012 dated 10/09/2018 on the subject noted above and to state that as the applicant Zahir Din (Sub Engineer) name is not included in the list of applicants in the Service Appeal No.1130/2010, hence, the instant case covered under the Rule of good governance as incorporated in the decision of Apex Court, 1996 SCMR 1185 in titled case Hasnain Akhtar Khazi Vs Secretary Establishment Division, Govt. of Pakistan and others. The Service Tribunal Khyber Pakhtunkhwa in above mentioned Service Appeal in its judgement dated 02-03-2016 at para-30 directed as "though adequate number of 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 claim. We therefore, direct that benefits of this judgement be extended to those sub engineer who fulfilled the criteria becoming senior scale sub engineer at the relevant time" and circulated directions to the Provincial Government for guidance and compliance among all the Government Department.

Hence, the Administrative Deptt. may examine the case to see whether the (non litigant) applicant who filed the representation similarly placed persons to those of the petitioners in the judgement of Service Tribunal dated 02-03-2016 in compliance of which their orders for senior Scale Stenographer were issued or otherwise until the comparison is to be made on the basis of apple to apple (like for like comparison).

Yours faithfully,

[Signature]
Section Officer (Opinion-II)

Encl: of Govt No. 4/2018
Copy is forwarded to the PS to Secretary, Law Department.

Section Officer (Opinion-II)

ATTESTED

Attested
[Signature]
to be true copy



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOG/C&WD/11-137/2012
Dated Peshawar, the July 20, 2022

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To: The Chief Engineer (Centre)
C&W, Peshawar

Subject: Grant of Senior Scale/Selection Grade (BS-16) in light of Peshawar High Court Decision dated 06.04.2021 and Khyber Pakhtunkhwa Service Tribunal Judgment dated 29.11.2021

1. I am directed to refer to the subject noted above and to state that Syed Attiq-ur-Rehman Sub Engineer filed Execution Petition in Service Tribunal for grant of Senior Scale/Selection Grade BS-16. The court has disposed of the referred service appeal. Copy of the same is enclosed.

2. Similarly, Mr. Zewar Din Sub Engineer along with 16 others were also filed writ petition in Peshawar High Court Peshawar for grant of Senior Scale BS-16 on the basis that their juniors were granted selection grade BS-16 w.e.f. 04.09.2003. The Hon'able court in its judgment dated 06.04.2021 disposed of the petition directing the respondents to consider the petitioner's grievance brought by them before this court in light of the judgment delivered by the Khyber Pakhtunkhwa Service Tribunal dated 02.03.2016 which has been upheld by the Hon'able Supreme Court of Pakistan vide judgment dated 13.02.2017. Copies are enclosed.

3. As per procedure, the judgment of PHC dated 06.04.2021 was referred to the scrutiny committee of Law Department. The scrutiny committee in its meeting held on 05.05.2021 decided to return the case to Administrative Department with the remarks that "filing of CPEA against the judgment would be futile exercise". Similarly, the Service Tribunal judgment also referred to Law Department for placing before their scrutiny committee. Accordingly, the Law Department placed the case before scrutiny committee wherein it was decided to submit implementation report and apprise the Khyber Pakhtunkhwa Service Tribunal from the facts of the case.

E. C&W Deptt. (Centre)
Jairy No. 1
Date 25/7/22
Case No.
E.C.W
E.N
E.L
O
O/ 971
S.A.O.
D.

In order to proceed further in the matter, it is therefore requested to furnish the following documents/information in respect of 17 Nos Diploma Holder Sub Engineers/01 No. Graduate Sub Engineer total 18 Nos:-

1. Synopsis of ACRs of the Sub Engineers (list attached)
2. Certificate regarding non-involvement of departmental/judicial inquiry against the officials, neither involved in any NAB case nor entered into plea bargain with National Accountability Bureau (NAB) prior to 2003, the date on which their juniors were awarded Senior Scale/Selection Grade (BS-16).

(MUDDASIR KHAN)
SECTION OFFICER (General)

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 (Admn) C&W Department Peshawar

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SECTION OFFICER (General)

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List of Sub Engineers who filed writ petition before PHC
Peshawar for the Senior Scale Selection Grade BS-16

Sr.No.	Name	Address
1	Zewar Din S/O Rehman ud Din	Municipal Colony Street No.2 Mohallah Rai Kohat Road Peshawar
2	Wahzed Ahmad S/O Umar Bakhsh	House No. 1913 Mohallah Kakye Khelan-Yak Peshawar
3	Mushtaq Ali S/O Sherin Gul	Village Hasan Khel P.O. & Tehsil Mir Ali North Waziristan
4	Armat Ullah-II S/O Hameed Ullah	Street No. 2 Mohallah Qadoos Abad Grid Road Dikhan
5	Hafeez-ur-Rehman S/O Habib-ur-Rehman	Azil Abad Murshad Abad Kohat Road Peshawar
6	Muhammad Naeem-III S/O Muhammad Ashraf	House No. 4283 Street No.3 Kakshal Peshawar
7	Rikhar Babar S/O Fazal Ellahi Babar	Street No. 2 Peshawar Modal Town Warsak Peshawar
8	Muhammad Shaukat S/O Abdur Rehman	Chakeer Road Tanki Mor, Mohallah Noor Pur Mansehra
9	Irtisad Ahmad Khan-I S/O Sardar Kala Khan	Changa House Sardar Street Javed Shaheed Road Mandian Abbottabad
10	Muhammad Sajjad S/O Abdul Haleem	House No. 421 Mohallah Afridi Khan Tehsil & District Peshawar
11	Inayat-ur-Rehman S/O Muhammad Ismail	Ziarat Talash P.O. khas Timergara Dir Lower
12	Muhammad Iqbal S/O Fazal Malik	House No. 119 Street No.7, Sector 3, Phase-IV Hayat Abad Peshawar
13	Ibad Ullah S/O Muhammad Karim	Mohallah Pran village Utmanzal Tehsil & District Charsadda
14	Muhammad Hayat S/O Noman Kalim	Mohallah Sanam Ghari village Utmanzal Tehsil District Charsadda
15	Shahzad Hassan S/O Sher Hassan	Private House 3, Civil Colony Kohat Road Peshawar
16	Akbar Ali S/O Muhammad Akbar	Hafiz Abad Munga Dargal Tehsil & District Charsadda
17	Munir Khan S/O Jafar Khan	Ekka Ghund Tehsil & District Mohmand
18	Syed Atiq-ur-Rehman	Retired Sub Engineer C&WD

300-96 1107

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ATTENDED

To,

The Secretary to Govt: of,
KPK, C&W Department Peshawar

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Anna F

Subject}

APPEAL FOR:-
GRANT OF SENIOR SCALE/SELECTION GRADE (BS-16)
IN LIGHT OF PESHAWAR HIGH COURT DECISION DATED
06/04/2021 AND KHYBER PAKTHUNKHWA SERVICES
TRIBUNAL JUDGEMENT DATED 29/11/2021.

Respected Sir,
Kindly refer to your good office Notification No SOG/C&W/3-365/2015 dated 31/10/2022 (Photo copy enclosed for ready reference).

With due respect, I humbly submit the following grievances for your kind perusal and favourable action please.

1. My husband, Muhaammad Ajmal Khan Son of Ghulam Mustafa was appointed as Sub Engineer (BS-11) with effect from 16/03/1988 vide Chief Engineer, C&W Department NWFP Peshawar Office Order No 848/3-E/1366-69/E-1(3) dated 13/03/1988 and posted in the Office of the XEN Building Division Mansehra.
2. He had passed his Departmental Professional Examination held during July 2010 vide Chief Engineer W&S Department Peshawar letter No 57-G/ 434/CE/C&WD dated 25/10/2010 at Serial No 18 under Roll Number 135 (Photo copy enclosed)
3. In pursuance of Govt: of KPK Finance Department Peshawar Notification No SO(FR)FD/7-13/2017/6253 dated 07/03/2018, the Post of Sub Engineer from BS-11/12 to BS-16 was upgraded to incumbents having 10-years or more service at their credit in the same scale in all the Govt: Department of Khyber Pakthunkhwa (Copy enclosed).
4. Due to death on 18/04/2013 my husband was stand retired from Government Service vide Chief Engineer (EQAA) KPK Abbottabad Office Order no 1386/11-E dated 08/05/2013 after completion of 25-Years,01-month and 02-days qualifying Service (Photo sit copy enclosed for ready reference).
5. At the time of death, he was posted in Office of the Executive Engineer, C&W Division Mansehra. As Sub Engineer (BPS-12)
6. In compliance of decision of Supreme Court of Pakistan Islamabad ,other 55-Nos Sub Engineer were also granted BS-16 w.e.from 04/09/2003 vide Secretary to Govt: of KPK C&W Department Peshawar Notification No SOE/C&WD/4-2/2018 dated 30/04/2018 but my deceased husband was again deprived of said facility (Copy enclosed).
7. In addition to the above, further 17-Nos Sub Engineers who were junior than him have been recently granted BS-16 w.e.from 04/09/2003 vide Secretary to Govt: of KPK C&W Department Peshawar Notification No SOG/C&WD/13-365/2015 dated 31/10/2022 , but it is astonishing to note that even in the said Notification his name was not included which seems in justice with him (Copy enclosed).
8. It is worth mentioning here, that most of Sub Engineer BS-11/12 Junior than him were granted BS-16 w.e.from 04/09/2003, but my deceased husband, being Senior most Sub Engineer has been constantly ignored from the said facility due to un-known reason .

In view of the detail position above, I , being single widow of the above named Deceased Government servant approach to your good self to kindly look into the matter personally and it is requested to grant the Senior Scale BS-16 with effect from 04/09/2003 accordingly, so that I may be able to look after my family expenses as there is no other source of income except a meager Pension of my deceased husband other wise, I shall be compelled to knock at the door of Law for obtaining my genuine right .The C&W department would be personally responsible for the consequences.

Dated: 28-7-2023

Your's Obediently

Nasrin

(MST NASRIN BIBI)
Widow of Late Muhammad Ajmal Khan
Ex- Sub Engineer (BS-12) Village and P.O
Nokot Tehsil & District Mansehra
CNIC No 6110120707050
Mob No.....

ATTESTED

(42)

BC 12-3863

mob-0346-9225049

Email: muhammadaljadid@gnail.com

کورت فیس
قیمتی

وکالت نامہ

بعدالت: سروس برائے سید محمد علی احمد

عنوان: سروس برائے اہل بنام: گوشت

منجانب: محمد شفیق

نوعیت مقدمہ: سروس برائے اہل

باعث تحریر آنکہ

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

سروس برائے سید محمد علی احمد

بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا بروہ تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پکھری کے علاوہ کسی اور جگہ ساعت ہوئے پر یا بروہ پکھری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پر داخستہ صاحب مثل کردہ ذات خود منظور و قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط صدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کارروپیہ وصول کرنے اور رسیدہ دینے اور داخل کرانے کا ہر قسم کا بیان دینے اور سپرد و تالی و راضی نامہ و فیصلہ برخلاف کرنے و اقبال دعویٰ کا اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یک طرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو شرط الاکراه کی علیحدہ علیحدہ پیروی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا ایئر سٹرو کو بجائے اپنے پکھری مقرر کریں اور اپنے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور اپنی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کہ سند ہے۔ مضمون مختار نامہ من لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

بمقام: محمد شفیق

المرقوم: محمد علی احمد

سید محمد علی احمد

محمد علی احمد

العباد