

12

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR CAMP COURT ABBOTTABAD

S.A No.6138 of 2020

Ghulam Qadir Son of Gul Qadir Versus

**Government of KPK, Secretary
C&W Deptt; & Others**

.....Appellant

.....Respondents

WRIT PETITION

INDEX

S. #	Description	Annexure	Page #
1.	Reply of writ petition & Affidavit & Authority letter		1 to 5
2.	Office Order regarding appointment of Appellant	"A"	6
3.	Promotion order (applicant)	"B"	7
4.	Copy of service appeal filled by appellant vide No. 915/2016	"C"	8-16
5.	Judgement passed by honorable court of service tribunal dated 20/03/20218	"D"	17-19
6.	Copy of decision of passed by Honorable Peshawar High Court Abbottabad Bench	"E"	20-21
7.	Copy of letter issued by Respondent No. 3 i.e Superintending Engineer, C&W circle Abbottabad regarding advice / guideline obtained from the competent authority	"F"	22-23
8.	Copy of letter received from the competent authority for the promotion of appellant	"G"	24
9.	Copy of letter regarding the post of Work Supervisor has been abolished by finance department	"H"	25
10.	Copy of office order Mr. Khalid & Mr. Shahid which are reverted vide Superintending Engineer C&W Abbottabad letter NO. 2489/28-G dated 18/06/2015	"I"	26
11.	Copy of Decision COC, filled by appellant in Honorable Peshawar High Court Abbottabad Bench & Service Rules.	"J"	27-35

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
CAMP COURT ABBOTTABAD

S.A No. 6138 of 2020

Ghulam Qadir S/O Gul Qadir presently Electrification
In C&W Department Tehsil & District Abbottabad

APPELLANT

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 9879

Date: 13-12-2023

- (1) Government of Khyber Pakhtunkhwa
Through Secretary C&W Deptt: &Others
- (2) Chief Engineer C&W Deptt: Abbottabad
- (3) Superintending Engineer C&W Deptt: Abbottabad

RESPONDENT

Reply / Parawise Comment on behalf of Respondent No. 1 to 3.

Preliminary Objection:

1. That the appellant has neither a cause of action nor locus stand to file instant appeal.
2. That the appellant has not come to this honorable court with clean hands.
3. That the appellant was appointed as a cooly vide Executive Engineer Building Division Officer Order No. 3129/163/1-E, dated 29.12.1988.(Annexure-A) Later on he was promoted as Electrician vide Executive Engineer C&W Division Abbottabad Office Order No. 1112/163/1-E, dated 19.02.1999.(Annexure-B)
4. That the appellant filed a service appeal in Hon' able court of Service Tribunal vide No. 915/2016. (Annexure-C) In the meanwhile Hon' able court of Service Tribunal passed Judgment on 20.03.2018 that the appeal hold lacks the jurisdiction and the appeal is returned to appellant for presenting it before proper forum subject to all legal and factual exception including limitation.(Annexure-D)
5. That the appellant was filed a writ petition No. 579-A/2018 in Hon' able Peshawar High Court Bench Abbottabad. Later on the Hon' able High Court was decided the case and issued direction to Respondent No. 3, i.e. Superintending Engineer C&W Circle Abbottabad to decide the petitioners appeal within 2 months.(Annexure-E)
6. That the Respondent No. 3 take up the case with competent authority vide his letter No. 1942/5-E, dated 02.07.2018 for advice regarding the promotion of appellant(Annexure-F). Therefore, guideline / advice received from Section Officer (Estb) C&W Deptt: Peshawar vide his letter No. SOE/C&WD/11-270/2018 Elect, dated 05.09.2018, regarding the promotion from the post of Electrician to Work Supervisor, i.e. promotion cannot be carried out on the subject post, but to fulfill the said post only by INITIAL RECRUITMENT for which the mandatory qualification is, that candidate have SSC Certificate or equivalent qualification with 3 year diploma in Civil Technology instead of relevant technology as notified vide notification No. SOE/C&WD/8-12/2009, dated 25.03.2010.(Annexure-G).

7. That the post of work supervisor has already been abolished by the Finance Department vide Notification No. BOI/FD/1-70/2020-21, dated 17.03.2021(Annexure-H)

Reply / Comments on Facts:

1. Incorrect. The appellant was appointed as Cooly vide Executive Engineer Building Division Officer Order No. 3129/163/1-E, dated 29.12.1988. The appellant was promoted as Electrician vide Executive Engineer C&W Division Abbottabad Office Order No. 1112/163/1-E, dated 19.02.1999.
2. Incorrect: on the eve of retirement of one Mr. Muhammad Khalid S/O Bostan Khan, Mr. Shahid Carpenter was promoted as Supervisor. But later on he was reverted to his original post vide Superintending Engineer C&W Circle Abbottabad Office Order No.2489/28-E, Dated 18.06.2015 in light of Part-II /NWFP Appointment / Promotion / Transfer Rules 1989 read with the notification issued on 29th October 1996.(Annexure-I)
3. Correct. The office order regarding the promotion of Mr. Shahid Carpenter has been withdrawn vide Superintending Engineer C&W Circle Abbottabad office order No. 2489/28-G dated 18.6.2015.
4. Appellant case for promotion to the post of Supervisor was overhauled but in light of Rule(2) in Sub-Rule 3, Part-II /NWFP Appointment / Promotion / Transfer Rules 1989 read with the notification issued on 29th October 1996. The appellant does not fulfill the promotion criteria i.e. post of Supervisor can't be filled up by promotion rather the same could be filled up through initial recruitment with minimum qualification: (i) SSC or equitant qualification from recognized board and (ii) Diploma in relevant Technology from the board of Technical Education. The case was decided by the competent authority vide letter No. 99/5-E, dated 21.07.2016 (photocopy attached as annexure-3).
5. As replied in Para-2 above.
6. That the appellant filed a writ petition No. 579-A/2018 in Hon' able Peshawar High Court Bench Abbottabad. Later on the Hon' able High Court decided the case and issued direction to Respondent No. 3, i.e. Superintending Engineer C&W Circle Abbottabad to decide the petitioners appeal within 2 months. That the Respondent No. 3 take up the case with competent authority vide his letter No. 1942/5-E, dated 02.07.2018 for advice regarding the promotion of appellant. Therefore, guideline / advice received from Section Officer (Estb) C&W Deptt: Peshawar vide his letter No. SOE/C&WD/11-270/2018 Elect, dated 05.09.2018 and stated that the post of Electrician to Work Supervisor, that the promotion cannot be carried out on the subject post, but to fulfill the said post only by INITIAL RECRUITMENT for which the mandatory qualification is, that candidate have SSC Certificate or equivalent qualification with 3 year diploma in Civil Technology instead of relevant technology as notified vide notification No. SOE/C&WD/8-12/2009, dated 25.03.2010.

7. Incorrect. That the Respondent No. 3 take up the case with competent authority vide his letter No. 1942/5-E, dated 02.07.2018 for advice regarding the promotion of appellant. Therefore, guideline / advice received from Section Officer (Estb) C&W Deptt. Peshawar vide his letter No. SOE/C&WD/11-270/2018 Elect, dated 05.09.2018, regarding the promotion from the post of Electrician to Work Supervisor, that the promotion cannot be carried out on the subject post, but to fill the said post only by INITIAL RECRUITMENT for which the mandatory qualification is, that candidate have SSC Certificate or equivalent qualification with 3 year diploma in Civil Technology instead of relevant technology as notified vide notification No. SOE/C&WD/8-12/2009, dated 25.03.2010. The appellant filed COC No. 82-A/2018 against the non-compliance of order of Peshawar High Court Bench Abbottabad dated 30.05.2018, which was dismissed by Hon' able High Court Bench Abbottabad. **(Annexure-J)**.

8. Pertains to record.

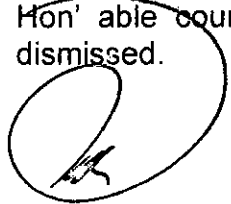
9. Pertains to record.

10. Pertains to record.

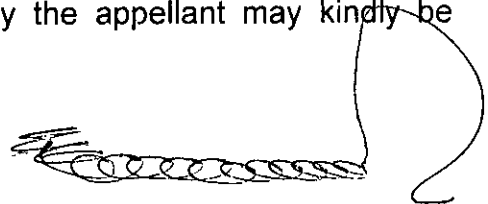
GROUND:

- a. Incorrect: As the case of appellant have been decided in light of Rule (2) in Sub-Rule 3, Part-II/NWFP Appointment / Promotion / Transfer Rules 1989 read with the notification issued on 29th October 1996.
- b. Incorrect: Same remarks as above (a).
- c. Incorrect: Same remarks as above (b).
- d. Incorrect: Same remarks as above (c).
- e. Subject to proof.

It is requested that the service appeal No. 15/2016 has already decided by the Hon' able court, hence fresh appeal filled by the appellant may kindly be dismissed.



(MUHAMMAD IDREES KHAN)
 Secretary
 Govt: of KPK
 C&W Department Peshawar
 (Respondent No. 1)



(SYED RAFAQAT SHAH)
 Chief Engineer (East)
 C&W Department
 Abbottabad
 (Respondent No. 2)



(ABDUS SALAM)
 Superintending Engineer
 Communication & Works Circle
 Abbottabad
 (Respondent No. 3)

4

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR CAMP COURT ABBOTTABAD

S.A No.6138 of 2020

Ghulam Qadir Son of Gul Qadir Versus

Government of KPK, Secretary
C&W Deptt; & Others

.....Appellant

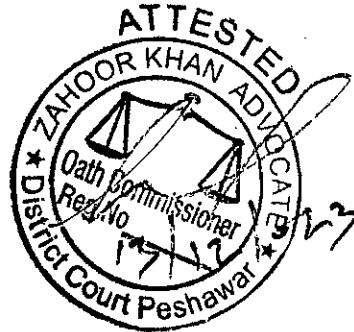
.....Respondents

AFFIDAVIT

I, Engr: Syed Razaqat Shah Chief Engineer (EAST), C&W EAST wing
Abbottabad do hereby solemnly affirm and declare that the contents of the
accompanying reply of Service Appeal are true and correct to the best of my
knowledge and belief and nothing has been concealed therein from this Honorable
Court.

*The answers respondents have neither
place evidence nor their Defences stated at test.*


DEPONENT



5

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR CAMP COURT ABBOTTABAD

S.A No.6138 of 2020

Ghulam Qadir Son of Gul Qadir Versus

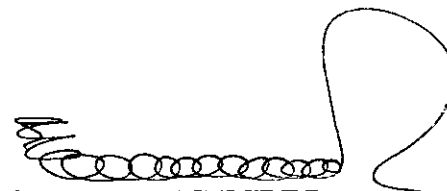
**Government of KPK, Secretary
C&W Deptt; & Others**

.....Appellant

.....Respondents

Authority Letter

Mr. Abid Hussain Bangesh SDO, Building is hereby authorized
to submit comments on the above mentioned service appeal in the Court of
Honorable Service Tribunal Peshawar.



**CHIEF ENGINEER,
(EAST) C&W Department Abbottabad**

OFFICE OF THE EXECUTIVE ENGINEER BUILDING DIVISION A'ABAD.

OFFICE ORDER.

No. 3129 /163/1-E DATED A'ABAD THE 29 /12/1988

To:-

Mr. Ghulam Qadir
S/O Gul Q adir C/O
Awan Electric Store A'Abad.

Subject:- APPOINTMENT AS COOLY.

Reference:- Your application dated 20/12/1988.

You are hereby appointed as Cooly against vacant post at Rs.600/-P.M. in the B.P.S.600-13-860 plus usual allowances as admissible under the Rules.

If you accept the post on the following conditions you shall report for duty to the Sub Divisional Officer Building Maintenance Sub Division Abbottabad on or before 1/4/1989 failing which the offer shall be considered as cancelled.

Your appointment is purely temporary and your services can be terminated at 2 weeks notice at any time without any reasons being assigning, irrespective of the fact that you may be holding post other than the one to which you originally recruited or on payment of 2 weeks pay in lieu of the notice.

In case you wish to resign at any time 2 weeks notice shall be necessary otherwise 2 weeks pay shall be forfeited.

You shall be governed by such rules and orders relating to leave, T.A. Medical attendance, pay, pension etc: as may be issued by Govt: time to time for category of Govt: servants to which you will belong.

You will join your duty on your own expense.

You have to produce a Medical Certificate of fitness alongwith original Domicile Certificate reporting for duty.

The offer is subject to the condition that you are domiciled of N.W.F.P.

You have to any work serve any where in the Deptt: of the Govt: of NWFP when you are called upon to do so in the interest of Public service.

EXECUTIVE ENGINEER
BUILDING DIVISION A'ABAD.

Copy to the:-

- 1) S.D.O.B.M. Sub Division Abbottabad for information with reference to his No.347 dated 27/12/1988.
- 2) Distt: Account Officer A'Abad.
- 3) Divisional Accountant (Local)
- 4) OFFICE ORDER FILE.

Sd/-
EXECUTIVE ENGINEER
BUILDING DIVISION A'ABAD.



Order - B

OFFICE OF THE EXECUTIVE ENGINEER BUILDING DIVISION ABBOTTABAD.
OFFICE ORDER NO. 1112/143-16/ DATED ABBOTTABAD THIS 15/2/79.

OFFICE ORDER.

The following promotions of the regular recharged staff of this Division are hereby ordered in the interest of Government work with immediate effect.

S.No.	Name and Designation/ EPS.	Post against which promoted.	Remarks.
1.	Mr. Zard, Supervisor EPS-9	Promoted as Superintendent SAN in EPS-10.	Against exstg. vacancy, due to retire- ment of Kashif Ali.
2.	Mr. Muhammad Younis, Electrician, EPS-5.	Promoted as Supervisor in EPS-9.	Against exstg. vacancy vice No. 4
3.	Chaleem Qadir Cooly, EPS-1.	Promoted as Electrician in EPS-5.	do- vice No. 2
4.	Mr. Basir Khan Cooly EPS-1	Promoted as Electrician in EPS-5.	Against existing vacancy due to retire- ment of Muhammad Ali.

EXECUTIVE ENGINEER
BUILDING DIVISION ABBOTTABAD.

Copy to:-

1. The District accounts Officer, Abbottabad.
2. The Sub Divisional Officer, building maintenance
Sub Division Abbottabad.
3. The Divisional Accounts Officer (local)
for information and necessary action.
4. Officials concerned. ②
5. Office order file.

(Signature)

EXECUTIVE ENGINEER
BUILDING DIVISION ABBOTTABAD.

**BEFORE THE KPK SERVICE TRIBUNAL
PESHAWAR.**

S.A No. 915 /2016.

Ghulam Qadir son of Gul Qadir, presently
Electrician in C&W department, Tehsil &
District Abbottabad. Appellant


Versus

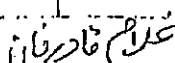
Government of KPK through Secretary
Communication and Works Department Peshawar
and others. Respondents


Service appeal

I N D E X

S.No.	Particulars	Annexures	Pages
1	Service appeal alongwith affidavit.		1-8
2	Copies of retirement order of Muhammad Khalil and promotion of Mr. Shahid as supervisor.	A & B	9-10
3	Copy of order dated 18.06.2015 and order of this Honourable Tribunal dated 20.04.2016.	C & D	11-12
4	Copy of appeal dated 05.05.2016 and letter of respondent No.3 dated 18.05.2016.	E & F	13-14
5	Copies of letter of respondent No.4 dated 10.06.2016 addressed to respondent No.3 alongwith two letter dated 29.05.2006 and 22.02.2013.	G, H & I	15-18
6			
7	Vakalatnama		19


 Through
 Sub-Divisional Officer
 Building-4, C&W
 Sub Division A, Abad


 Appellant


 (Abdul Shakoor Khan)
 Advocate Supreme Court of
 Pakistan Abbottabad.

Dated:-25/08/2016.

9

BEFORE THE KPK SERVICE TRIBUNAL
PESHAWAR.

S.A No. _____/2016.

Ghulam Qadir son of Gul Qadir, presently
Electrician in C&W department, Tehsil &
District Abbottabad.

Appellant

Versus

1. Government of KPK through Secretary
Communication and Works Department
Peshawar.
2. Chief Engineer C&W Department, Abbottabad.
3. Superintendent Engineer C&W Department,
Peshawar.
4. The Executive Engineer C&W Department
Abbottabad.

Respondents

(Handwritten signatures and initials)

Sub Divisional Office
Building-I, C&W
Sub Division A. Abud

APPEAL UNDER SECTION 4 OF KPK
SERVICE TRIBUNAL ACT 1974 AGAINST
THE NON-PROMOTION OF APPELLANT TO
THE POSITION OF SUPERVISOR


10

DESPITE HIS FILING AN APPEAL
DATED 05.05.2016 TO THIS EFFECT
BEFORE THE RESPONDENT NO.3 AFTER
THE WITHDRAWAL OF PROMOTION OF
ONE MR. SHAHID AS SUPERVISOR
AGAINST WHOSE PROMOTION APPELLANT
HAD FILED AN APPEAL NO.1220 OF
2013 BEFORE THE KPK SERVICE
TRIBUNAL AND SAME WAS DISMISSED
AS WITHDRAWN ON 20.04.2016.

Prayer:- ON ACCEPTANCE OF THE INSTANT APPEAL
THE RESPONDENTS MAY KINDLY BE DIRECTED
TO PROMOTE THE APPELLANT FROM THE POST
OF ELECTRICIAN TO SUPERVISOR WITH
EFFECT FROM THE DATE WHEN MR. SHAHID
CARPENTER WAS PROMOTED AS SUPERVISOR.

It is respectfully submitted as under:

1. That appellant was appointed as electrician in the year 1988 and he was placed in BPS-5. He had served for almost 28 years in the same scale and not promoted as yet in higher scale.


Sub Divisional Officer
Building, C&W
Sub Division A. Abad 2.

That after the retirement of one
Muhammad Khalil son of Bostan Khan,

from the post of supervisor in BPS-9, Mr. Shahid carpenter was promoted against the said post of supervisor. Copies of retirement order of Muhammad Khalil and promotion of Mr. Shahid as supervisor are marked as Annexures A & B.

3. That appellant being aggrieved from the promotion of aforementioned Mr. Shahid after doing needful preferred an appeal No.1220 of 2013 before this Honourable Tribunal. During the pendency of said appeal, the respondent No.3, in compliance with the direction of respondents No.1 & 2 vide order dated 18.06.2015, has reversed the promotion order of Mr. Shahid. As a result, whereof, the aforesaid appeal No.1220 of 2013 became infructuous. therefore, the same was dismissed as withdrawn. Copy of order dated 18.06.2015 and order of this Honourable Tribunal dated 20.04.2016 are annexed as Annexure C & D.


Sub-Divisional Officer
Building-1, C&W
Sub-Division A, Abad

4. That after withdrawal of aforesaid appeal, the appellant on 05.05.2016 preferred an appeal before the respondent No.3 for his promotion to the position of supervisor. As previously many electricians in BPS-5 have been promoted as supervisors in BPS-9. The respondent No.3 instead of taking an action upon the appeal of appellant vide his letter dated 18.05.2016, asked the respondent No.4 for information and detail report, so it may take necessary action respecting the said appeal of appellant. Copy of appeal dated 05.05.2016 and letter of respondent No.3 dated 18.05.2016 are annexed as Annexure E & F.

5. That during the pendency of departmental appeal of appellant, the respondent No.4 had apprised to respondent No.3 that earlier many electricians in BPS-5 have been promoted to the position of supervisors in BPS-9 and the case of promotion of appellant is within his


Sub Divisional Officer
 Building, C & W
 Sub Division A, Abbott
 Sub Divisional Officer
 Building, C & W
 Sub Division A, Abbott

13

5

competence. As such, he may dealt with the case of appellant promotion. Copies of letter of respondent No.4 dated 10.06.2016 addressed to respondent No.3 alongwith two letters dated 29.05.2006 and 22.02.2013 where under electricians in BPS-5 have been promoted to the positon of supervisors in BPS-9 are annexed as Annexure G, H & I.

6. That more than 90 days have been elapsed since the filing of departmental appeal, but respondents have neither promoted the appellant nor made any response respecting his appeal. As such, under the circumstances, appellant is left with no other option, but to file this appeal before this Honourable Tribunal. Hence, this appeal, inter-alia, on the following grounds and that other better grounds which shall be urged at the time of hearings.



Sub Divisional Officer
Building-I, C&W
Sub Division A, Abad

6

19

GROUND S

- a. That appellant in view of the past precedents is eligible to be promoted as supervisor in BPS-9, thus, his non-promotion to the position of supervisor in BPS-9 by respondents is highly unjust, unfair and un-ethical.
- b. That, appellant is suffering on account of in-action and non-action of the respondents of not constituting the D.P.C for his promotion as supervisor in BPS-9. It is well settled that no one shall suffer on account of in action and non-action of public functionaries, thus, appellant under the circumstances in no way can be deprived from his right of promotion as supervisor in BPS-9.
- c. That, it is highly unjust, unfair, against the equity and good conscience that appellant


Sub Divisional Officer
Building-I, C&W
Sub Division A, Abad

who was having legal right to be promoted as supervisor in BPS-9 was not promoted for benefiting some blue eyed baby. Under the policy of fair play it is utmost duty of respondents that they may do needful for the promotion of appellant as supervisor in BPS-9. So he may be promoted as supervisor in BPS-9.

d. That, appellant is being discriminated against all those who being electricians were promoted as supervisors, but, appellant despite having vacant post of supervisor in BPS-9 since 2013 is not promoted as yet. The same act on the part of respondents is violation of article 25 of the constitution of Pakistan, 1973.

[Handwritten Signature]
Sub Divisional Officer
Building 4, C&W
Sub Division A, Abad

That appeal is within time.

PRAYER

It is, therefore, very humbly prayed

8

16

that this Honourable Tribunal may graciously be pleased to pass an order for the promotion of appellant as supervisor in BPS-9 when Mr. Shahid carpenter was promoted as supervisor in BPS-9 alongwith consequential benefits.

[Handwritten Signature]
Appellant

Through:-

[Handwritten Signature]
(Abdul Shakoor Khan)
Advocate Supreme Court of
Pakistan Abbottabad.

Dated:- 25/08/2016.

AFFIDAVIT

I, Ghulam Qadir son of Gul Qadir, presently Electrician in C&W department, Tehsil & District Abbottabad, do hereby declare on oath that the contents of the Appeal are true and correct and nothing has been concealed from this Honourable Tribunal.

[Handwritten Signature]
Deponent

Dated: 25/08/2016

[Handwritten Signature]
Sub Divisional Officer
Building-I, C&W
Sub Division A.Abad



Annex - J

P-25

5

17

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT ABBOTTABAD**

Service Appeal No. 915/2016

Date of Institution... 29.08.2016

Date of decision... 20.03.2018



Ghulam Qadir son of Gul Qadir, presently Electrician in C&W department, Tehsil and District Abbottabad, ... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Communication and Works Department, Peshawar and 3 others. ... (Respondents)

MR. OWAIS KHAN,
Advocate

... For appellant.

MR. USMAN GHANI,
District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN,

... CHAIRMAN
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant challenged the promotion of Carpenter who was promoted to the post of Supervisor on 05.02.2012 which was challenged before this Tribunal in the year 2013. And finally, that appeal was disposed of on 20.04.2016 on the ground that order of that Carpenter, Shahid Khan was withdrawn. The appellant then filed another departmental appeal on 05.05.2016 for his promotion to the post of supervisor which was not responded to and thereafter he filed the present service appeal on 29.08.2016.

ATTESTED

[Signature]
Secretary
Khyber Pakhtunkhwa Service Tribunal
Peshawar

2

P-26

18

ARGUMENTS

The learned counsel for the appellant argued that the appellant had the right to be promoted to the post of Supervisor on the basis of some precedents and practice in which electrician were promoted to the post of Supervisor. He further argued that Shahid Khan, Carpenter was not eligible as he was not holding the required diploma and qualification. That the appellant was entitled to have been promoted to the post of Supervisor as he was qualified in all respect.

4. On the other hand, the learned District Attorney argued that as per the rules notified in the year 1996 under sub rule-3 of rule-2 of the Khyber Pakhtunkhwa (Appointment, Promotion and Transfer) Rules 1989 the post of Supervisor was to be filled in 100% by initial recruitment and no percentage was reserved for promotion.

CONCLUSION

5. Before discussing the merits of the appeal, this Tribunal is first to decide its jurisdiction. Under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 this Tribunal can assume the jurisdiction only and only when there is some original or appellate order from which the appellant is aggrieved. The appellant was aggrieved from the order of promotion of Shahid Khan which appeal was finally withdrawn as the department had cancelled the order of Mr. said Shahid Khan. Thereafter no order was passed by the departmental authority which could be challenged by the appellant before this Tribunal. Mere filing of a departmental appeal against no order, alleging his right to be promoted, does not fall within the definition of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. The learned counsel of the appellant argued that though there was no original or appellate order but the right of the appellant was violated by not promoting him and under the law where there was a right there was a remedy. The learned counsel for the appellant is correct to the extent of right and remedy but the law has prescribed forum for each and

ATTESTED

CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal

every remedy. This Tribunal cannot give remedy only on the basis of rights as this Tribunal is not a court of plenary jurisdiction. The jurisdiction of this Tribunal is circumscribed by the limits of the law. Infringement of all those rights which do not fall within the jurisdiction of this Tribunal can be challenged before the court of plenary jurisdiction.

6. This Tribunal is therefore, without commenting on the merits of the appeal, holds that this Tribunal lacks the jurisdiction. The memorandum of appeal is returned to the appellant for presenting it before proper forum subject to all just legal and factual exceptions including limitation etc. Parties are left to bear their own costs. File be consigned to the record room.

Announced *Edf Niaz Muhammad Khan,*
20-03-2018 *Chairman*

Compl Court Appeal

AN
20.

Edf Ahmad Hassan,
Member

Copy
K...
S...
Residues

Date of Presentation of Petition 30-3-18
Number of Pages 1200
Copying Fee 8
Urgent 3
Total 10
Name of Copyist MD
Date of Completion of Copy 30-3-18
Date of Delivery of Copy 30-3-18



PESHAWAR HIGH COURT
ABBOTTABAD BENCH

Annex - E
Ph: 0992-9310058
Fax: 0992-9310055

20

No: 646

Dated Abbottabad 7/6 June 2018



From:

The Additional Registrar,
Peshawar High Court,
Abbottabad Bench.

To

The Superintending Engineer,
C&W Department Abbottabad.

Subject: WRIT PETITION NO. 579-A of 2018.

Ghulam Qadir S/o Gul Qadir presently Electrician in C&W Department Tehsil & District Abbottabad. Petitioner.

VERSUS

Govt. of KPK through Secretary Communication & Works Department Peshawar & others. Respondents.

Memo.

I am directed to forward herewith a copy of judgment dated 30.05.2018, passed by the Honourable Division Bench in the above noted case for information and compliance.

(Additional Registrar)

1569/7-6
19-6-18

176

217

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.

FORM OF ORDER SHEET

Court of.....

Case No.....

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge(s)
1.	2.
30.05.2018	<p><u>W.P.No.579-A/2018.</u></p> <p>Present:- Mr. Muhammad Arshad Khan Tanoli, Advocate for petitioner.</p> <p>***</p> <p><u>LAL JAN KHATTAK, J.-</u> At the very outset, learned counsel for the petitioner stated at the bar that he would not press this petition anymore, if direction is given to the respondent No.3 to pass an order on the appeal submitted to him by the petitioner regarding his grievance.</p> <p>2. In view of the above, this writ petition is disposed of with direction to the respondent No.3 to decide the petitioner's appeal within a period of two months positively in accordance with law and rules on the subject.</p> <p><u>Announced</u> 30.05.2018.</p> <p><i>Sd/- Judge</i> <i>Sd/- Judge</i></p> <div data-bbox="446 1299 686 1465" style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Certified to be True Copy EXAMINER 21 JUN 2018 Peshawar High Court, Abbottabad Bench Subscribed under Secy's Hand Order</p> </div>

Abb.P.S/P

Judges Lal Jan Khattak & Syed Arshad Ali

To,

The Chief Engineer (EAST)
C&W Department
Abbottabad.

Subject:- PROMOTION OF ELECTRICIAN TO SUPERVISOR.

It is submitted that Mr. Ghulam Qadir Electrician attached with XEN C&W Division Abbottabad is requesting for promotion from Electrician to Supervisor, the detail history of the case is as under, please.

1. The official was appointed as Cooly (BPS-01) vide XEN Building Division Abbottabad vide office order No. 3129/163/1-E dated 29.12.1988 and was promoted as Electrician (BPS-05) vide XEN C&W Division Abbottabad office order No. 1112/163/1-E dated 19.2.1999 (copy attached).
2. On the retirement of Mr. Muhammad Khalil Supervisor Mr. Shahid Carpenter was promoted as Supervisor (BPS-09) vide Superintending Engineer C&W Circle Abbottabad letter No. 3497/15-E dated 05.9.2012 but later on he was reverted to his original post vide SEAC office order No. 2489/28-E dated 18.6.2015 in light of part-II/ NWFP, Appointment/Promotion/Transfer Rules 1989 read with the notification issued on 29th October 1996.
3. The official challenged the promotion of Mr. Shahid Khan Carpenter in the Court of KPK Services Tribunal, but the promotion order of Mr. Shahid Khan was withdrawn by this office as already explained in Para No. 2.
4. After withdrawal of promotion order of Mr. Shahid Khan, Mr. Ghulam Qadir Electrician had filed another departmental appeal on 05.5.2016 for his promotion as supervisor, which was turned down by the undersigned vide this office letter No. 99/5-E dated 21.7.2016 (copy attached) as per Part-II/NWFP, appointment/promotion/transfer rules 1989 and thereafter he filed another service appeal on 29.8.2016 in the Court of KPK Services Tribunal which was decided/filed on 20.3.2018 wherein it has been mentioned that this Tribunal cannot give remedy only on the basis of rights as this Tribunal is not a court of plenary jurisdiction (photocopy of judgment attached).
5. The case for promotion to the post of supervisor was overhauled, but in light of Rule (2) in Sub Rule (3), Part-II/NWFP Appointment/Promotion/Transfer Rules 1989 read with the notification issued on 29th October 1996. The official does not fulfill the Promotion Criteria for the post of Supervisor by Promotion but the same could be filled up by initial recruitment with minimum qualification (I) SSC or ^{equivalent} ~~equivalent~~ qualification from recognized board and (II) Diploma in relevant technology from the Board of Technical Education.

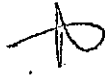
C.O.P-II

23

The case was returned back to the XEN C&W Division Abbottabad with the above noted remarks, but the official filed another writ Petition No. 579-A of 2013 in the Peshawar High Court Abbottabad Bench for his promotion as supervisor against the Department and Honorable Court had decided the case as under please:-

"At the very outset, learned counsel for the petitioner stated at the bar that he would not press this petition anymore, if direction is given to the respondent No. 3 to pass an order on the appeal submitted to him by the petitioner regarding his grievance. In view of the above, this writ petition is disposed of with direction to the respondent No. 3 to decide the petitioner's appeal within a period of two months positively in accordance with law and rules on the subject (photocopy attached)".

In view of the above noted facts it is therefore, requested that this office may please be advised regarding above noted issue whether the case for promotion of above named official may be considered or otherwise.


SUPERINTENDING ENGINEER

Annex-9
24

No. SOE/C&WD/11-270/2018 Elect
Dated Peshawar, the Sept 05, 2018

To:

The Chief-Engineer (East)
C&W Abbottabad

Subject:

PROMOTION OF ELECTRICIAN TO SUPERVISOR

I am directed to refer to your office letter No.CE(E)/1570/5-E dated 19.07.2018 on the subject above and to state that from perusal of the SE C&W Circle Abbottabad letter under reference, the promotion of Mr. Ghulam Qadir from the post of Cooli (BS-01) to the post of Electrician was irregular from the very date i.e. 19.02.1992, as a person who was not possessing academic qualification, in addition the technical qualification of Electrician course/trade was mandatory to the post of Electrician. Similarly the former Appointment/Recruitment Rules, 1996, and the recent Appointment/Recruitment Rules, 2010 does not give any promotion prospect to Electrician to the post of Supervisor except the Electrician (BS-05/06) can be promoted in own line as Electrician Grade-I (BS-07/08).

2. Moreover, the prescribed qualification for the post of Supervisor/Work Supervisor having Secondary School Certificate or equivalent qualification with 03 years Diploma in Civil Technology instead of relevant technology as notified vide Notification No.SOE/C&WD/8-12/2009 dated 25.03.2010 and the method of recruitment is described "BY INITIAL RECRUITMENT" and not by way of promotion or by Transfer.

3. It is therefore, requested to dispose of the case as per existing service rules and policy please.

Abdur Rashid Khan

(ABDUR RASHID KHAN)
SECTION OFFICER (Estb)

Endst even No. & date

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

No. 1878/5-E.C&W 24-9-18

Secy circle
Abbottabad

OFFICE OF THE CHIEF ENGINEER
EAST, C&W DEPARTMENT
ABBOTTABAD
DATE: 05/09/2018

SECTION OFFICER (Estb)

Superintending Engineer
C&W Circle Abbottabad
No. 2446/5-E
24-9-2018

Diploma in (1) SSC or equivalent



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Finance Department C&W Sectional Engineer ID: http://www.finance.gov.pk E: info@finance.gov.pk P: 0111-2500000

No. SO/3/CD/1-70/2020-21

Dated Peshawar the 17/03/2021

To

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

Subject: **DECLARATION OF UNESSENTIAL POSTS AS DYING CADRE**

Dear Sir,

I am directed to refer to the subject noted above and to state that in pursuance of the recommendations of the SNE Committee headed by the Finance Minister, Khyber Pakhtunkhwa and approval of the competent authority (Chief Minister), Finance Department agrees to declare the following posts as dying cadre, with immediate effect:

S.No	Nomenclature	S.No	Nomenclature
1.	Ferro Printer	15.	Superintendent E/M
2.	Supervisor	16.	Assistant Plant Superintendent
3.	Surveyor	17.	Mechanic
4.	Work Munshi	18.	Badraga
5.	Work Taker	19.	Workshop Attendant
6.	Cook	20.	Fireman
7.	Mason	21.	Mistral
8.	Painter	22.	Khansama
9.	Bearer	23.	Machine Man
10.	Record Lifter	24.	Time Keeper
11.	Barkandaz	25.	Turner
12.	Driver	26.	Dump & Dust Loader
13.	Cleaner	27.	Techoldan
14.	Store Keeper	28.	Blacksmith

2. All the above-mentioned posts in the C&W Department will be personal to the present incumbent and after becoming vacant as a result of retirement etc, no further recruitment will be made. On vacation, these posts shall stand abolished.

3. I am further directed to state that all vacant posts of the dying cadre stand abolished forthwith with the advice to verify DDO wise break up of such vacant posts, already provided by this Department and submit the same to Finance Department for abolition and deletion from SAP system. The Principal Accounting Officer as well as the appointing authorities concerned shall make sure that no appointment is made against vacant posts of dying cadre.



Yours faithfully,

(Signature)
(SAEED MAJID KHAN)
BUDGET OFFICER-I

Encls. No. 8. Date Even.

Copy is forwarded for information and necessary action to:-

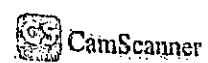
- 1) The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2) All Chief Engineers/Superintending Engineers and Executive Engineers, C&W Department, Khyber Pakhtunkhwa.
- 3) All District Comptroller of Accounts in Khyber Pakhtunkhwa
- 4) All District Accounts Officers, Khyber Pakhtunkhwa.
- 5) The Director, FMU, Finance Department with the request to impose check on the above mentioned posts in the SAP System, to avoid recruitment/adjustment against the posts.
- 6) The PS to Minister Finance, Khyber Pakhtunkhwa.
- 7) The PS to Secretary Finance, Khyber Pakhtunkhwa.
- 8) The PS to Special Secretary Finance (NMs).
- 9) Master File.

E.C.
For M9

(Signature)
BUDGET OFFICER-I

Website: http://www.finance.gov.pk

o/c



(Handwritten mark)

Amex-I

26

P-17

OFFICE OF THE
SUPERINTENDING ENGINEER
C&W CIRCLE ABBOTTLABAD
Phone # 9972-9310258/Fax # 9310344
E-mail: circle_aid@yahoo.com
No. 2489/28-7
Dated: 18/6/2015

Amant

(Handwritten marks)

OFFICE ORDER

In compliance with the directions of the competent authority as communicated vide Section Officer (Establishment) C&W Department Peshawar letter No. SOE/C&WD/24-60/2014 Elect dated, 21.5.2015 and Chief Engineer (EAST) C&W Department Abbottabad No. 1433/1-I dated: 09.6.2015, the promotion order of Mr. Shahid Carpenter to the Post of Work Supervisor issued vide office order No. 3497/15-E dated 05.9.2012 which was made against the rules & Procedure is hereby cancelled & the official is reverted to his original post of carpenter.

SUPERINTENDING ENGINEER

Copy to the:-

1. Chief Engineer (EAST) C&W Department Abbottabad with reference to his No. 1272/1-I dated 25.5.2015 and No. 1433/1-I dated 09.6.2015 for information, please.
2. Section Officer (Establishment) C&W Department Peshawar with reference to his No. SOE/C&WD/24-60/2014 Elect dated 21.5.2015 for information, please.
3. Executive Engineer C&W Division Abbottabad for information and further necessary action at his end.
4. District Accounts Officer Abbottabad for information and necessary action, please.

SUPERINTENDING ENGINEER

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH



C.O.C No. 82 -A/2018
IN
Writ Petition No. 579

Ghuham Qadir son of Gul Qadir, Electrician C&W Department Abbottabad.

...PETITIONERS

VERSUS

1. Ijaz Insaari, Chief Engineer C&W Department, Abbottabad.
2. Amir Durrani, Superintending Engineer C&W Department, Abbottabad.
3. Rafaqat Shah, Executive Engineer C&W Department Abbottabad,

....RESPONDENTS/ACCUSED

APPLICATION FOR INITIATION OF CONTEMPT
OF COURT PROCEEDINGS AGAINST THE
CONTEMNORS / RESPONDENTS FOR NOT
COMPLYING WITH ORDER OF THIS
HONOURABLE COURT DATED 30/05/2018.

Certified to be True Copy
EXAMINER
27 MAY 2018
Peshawar High Court Abbottabad
Mediated Under Sec 75 Extd Ordns

Respectfully Sheweth:-

- I. That the petitioner was to be promoted from Electrician to the post of Supervisor but

FORM OF ORDER SHEET



28

Date of Order of Proceedings	Order or other Proceedings with signature of Judge (s)
1	
22.05.2019	<p><u>C.O.C.No. 52-A/2018</u> & <u>W.P.No. 579-A/2018.</u></p> <p>Present: Mr. Muhammad Arshad Khan Tanoli, Advocate, for the petitioner.</p> <p>Raja Muhammad Zubair, AAG alongwith the respondents-contemnors.</p> <p>***</p> <p><u>LAL JAN KHATTAK, J.</u>- Petitioner through the present petition seeks initiation of contempt of court proceedings against the respondents for their not implementing the order of this court dated 30.05.2018 passed in W.P.No. 579-A/2018 whereby the respondents were directed to decide the petitioner's appeal in accordance with law and rules on the subject within a period of two (02) months positively.</p> <p>2. The learned AAG, while referring to letter bearing No. 667 dated 25.03.2019, annexed with the written reply of the respondents, stated at the bar that the order of this court dated 30.05.2018 has been complied with in its letter and spirit.</p> <p>3. Since the order of this court dated 30.05.2018 delivered in W.P.No. 579-A/2018 has been complied with by the respondents, therefore, the instant petition, being meritless, is hereby dismissed. However, if the petitioner</p>

Certified to be True Copy
EXAMINER
27 MAY 2019
Peshawar High Court Abbottabad Bench
Authorized Officer for 75 Evld Ordns.

Sign

is feeling aggrieved from the ibid letter of the respondent,
he can seek his remedy before the proper forum in
accordance with law.

[Signature]
JUDGE

[Signature]
JUDGE

Certified to be True Copy
EXAMINE
27 MAY 2019
Jeshwar High Court Bench
Authorized Under Sec 75 Evidence Ordinance

[Faint, illegible text in a rectangular box]

Sd/- CS

Hon'ble Mr. Justice Laf Jan Khan
Hon'ble Mr. Justice Ijaz Anwar

(17)

ANX-2
ANX-15

Revised copy of Annex-15

(17)

3

EXTRA ORDINARY

REGISTERED NO. P-31

GOVERNMENT



GAZETTE

North-West Frontier Province

PUBLISHED BY AUTHORITY

PESHAWAR, WEDNESDAY, 13th JUNE, 1997

Government of N.W.F.P.
Communication & works department

NOTIFICATION

29th October, 1996

No. E&A/C&W/11-5/91: - In pursuance of the provisions contained in sub rule (2) of rule-3 of the North-West Frontier Province, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, and in supersession of all previous rules issued in this behalf the Communication and Works Department in consultation with the Services and General Administration Department and the Finance Department hereby lays down the method of Recruitment, Qualification & other conditions specified in columns 3 to 5 of the Appendix to this Notification which shall be applicable to posts in column-2 of the said Appendix:

Sd/- XXXX
Secretary to Government of N.W.F.P.
Communication & Works Department

APPENDIX

S. No.	Name of Posts	Minimum qualification for Appointment by Initial recruitment	Age	Method of recruitment
1.	Comptroller	-	-	By promotion on the basis of seniority-cum-fitness from amongst clerks with at least five years service as such.
2.	Care-Taker	i. Degree from a recognized University and ii. Diploma in Hotel Management with three years experience in a Four Star Hotel.	20-35 years	a. Twenty-five percent by initial recruitment and b. Seventy-five percent by promotion on the basis of seniority-cum-fitness from amongst Assistant Care-Taker with a least two years service as such.
3.	Assistant Care-Taker	i. Degree from a recognized University and ii. Diploma in Hotel Management with three years experience in a Four Star Hotel.	20-30 years	By initial recruitment.
4.	Superintendent Works	i. Secondary School Certificate or equivalent Qualification from a recognized Board; and ii. Diploma in the relevant technology from the Board of Technical Education.	18-30 years	By initial recruitment.
5.	Supervisor	i. Secondary School Certificate or equivalent Qualification from a recognized Board; and ii. Diploma in the relevant technology from the Board of Technical Education.	18-30 years	By initial recruitment.

Handwritten signatures and notes including "Submitted file No. 11-5/91/10" and "13/6/97".

N.W.F.P GOVERNMENT GAZETTE, EXTRA ORDINARY, 11TH JUNE, 1971

31

S. No.	Name of Posts	Minimum qualification for Appointment by Initial recruitment	Age	Method of recruitment
6	Surveyor G-I			By promotion on the basis of seniority-cum-fitness from amongst Surveyors G-II with at least five years service as such.
7	Research Assistant			By promotion on the basis of seniority-cum-fitness from amongst Junior Laboratory Technicians with at least five years service as such.
8	Garden Superintendent			By promotion on the basis of seniority-cum-fitness from amongst Head Mails with at least ten years service as such.
9	Subedar Major Badmags			By promotion on the basis of seniority-cum-fitness from amongst Badmags with at least ten years service as such.
10	Electrician G-I			By promotion on the basis of seniority-cum-fitness from amongst Electricians G-II with at least five years service as such.
11	Mechanic G-I			By promotion on the basis of seniority-cum-fitness from amongst Mechanics G-II with at least five years service as such.
12	Operator G-I			By promotion on the basis of seniority-cum-fitness from amongst Operator G-II with at least five years service as such.
13	Carpenter G-I			By promotion on the basis of seniority-cum-fitness from amongst Carpenter G-II with at least five years service as such.
14	Turner	i. Secondary School Certificate or equivalent Qualification from a recognized Board; and ii. Certificate in the relevant trade from a recognized Institute.	20-30 Years	By initial recruitment.
15	Fitter	i. Secondary School Certificate or equivalent Qualification from a recognized Board; and ii. Certificate in the relevant trade from a recognized Institute.	20-30 Years	By initial recruitment.
16	Junior Laboratory Technician			By promotion on the basis of seniority-cum-fitness from amongst Laboratory Assistant with at least five years service as such.
17	Launch Captain			By promotion on the basis of seniority-cum-fitness from amongst Launch Boatmen with at least five years service as such.
18	Store Keeper			By promotion on the basis of seniority-cum-fitness from amongst Store Keepers G-II with at least ten years service as such.
19	Road Inspector	Diploma in Civil Engineering from a recognized Institute.	20-30 Years	a. Fifty percent by initial recruitment; and b. Fifty percent by promotion on basis of seniority-cum-fitness from amongst work Munshi with at least ten years service as such.

Superseded with effect from 25.03.2010

MS

Abolished

Superseded with effect from 25/3/2010

AS

N.W.F.P GOVERNMENT GAZETTE, EXTRA ORDINARY, 11TH JUNE, 1997.

S. No.	Name of Posts	Minimum qualification for Appointment by initial recruitment	Age	Method of recruitment
20.	Black Smith G-I	i. Secondary School Certificate or equivalent Qualification from a recognized Board; and ii. Certificate in the relevant trade from a recognized Institute.	20-30 Years	a. Fifty percent by initial recruitment; and b. Fifty percent by promotion on basis of seniority-cum-fitness from amongst Black Smith G-II with at least five years service as such.
21.	Telephone Operator	Secondary School Certificate from a recognized Board with three years experience in a telephone exchange.	18-26 Years	By initial recruitment.
22.	Surveyor G-II	i. Secondary School Certificate or equivalent Qualification from a recognized Board; and ii. Certificate in Survey from a recognized Institute.	20-30 Years	By initial recruitment.
23.	Electrician G-II	-	-	By promotion on the basis of seniority-cum-fitness from amongst Electrician G-III with at least five years service as such.
24.	Operator G-II	-	-	By promotion on the basis of seniority-cum-fitness from amongst Operator G-III with at least five years service as such.
25.	Store Keeper G-II	Secondary School Certificate or equivalent qualification from a recognized Board.	18-35 Years	By initial recruitment.
26.	Truck Driver / Road Roller Driver / Bulldozer Driver / Crane Operator / Loader / Grader / Compressor	Preferably literate with five years experience of heavy vehicle driving.	18-25 Years	By initial recruitment
27.	Mechanic G-II	-	-	By promotion on the basis of seniority-cum-fitness from amongst Mechanics G-III with at least five years service as such.
28.	Painter G-I	-	-	By promotion on the basis of seniority-cum-fitness from amongst Painter G-II with at least five years service as such.
29.	Laboratory Assistant	Secondary School Certificate with sciences as one of the subjects or equivalent qualification from a recognized Board.	18-25 Years	a. Fifty percent by initial recruitment; and b. Fifty percent by promotion on basis of seniority-cum-fitness from amongst Laboratory Assistants with at least five years service as such.
30.	Work Munshi / Store Munshi	Secondary School Certificate or equivalent Qualification from a recognized Board;	18-25 Years	By initial recruitment.
31.	Pesh-e-Juam	Abolished on 4/11/97 Sunad from Wafaq-ul-Mudaris.	20-30 Years	By initial recruitment.
32.	Foreman G-II	i. Secondary School Certificate or equivalent Qualification from a recognized Board; and ii. Certificate in the relevant trade from recognized Institute.	20-30 Years	By initial recruitment.
33.	Launch / Boatman	i. Secondary School Certificate or equivalent Qualification from a recognized Board; ii. Four years experience as launch / Boatman; and iii. Possessing a valid driving license.	20-30 Years	By initial recruitment.

Abolished on 4/11/97
Sunad: State

[Handwritten signature]

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95-12
Instraining Officer
Engineer (Control)
Government Peshawar

N.W.F.P GOVERNMENT GAZETTE, EXTRA ORDINARY, 11TH JUNE, 1997

No.	Name of Posts	Minimum qualification for Appointment by Initial recruitment	Age	Method of recruitment.
34.	Receptionist	Secondary School Certificate or equivalent Qualification from a recognized Board.	20-30 Years	By Initial recruitment.
35.	Mason / Carpenter / Pipe Fitter / Black Smith G-II	i. Secondary School Certificate or equivalent Qualification from a recognized Board; and ii. Certificate in the relevant trade from recognized Institute.	20-30 Years	By Initial recruitment.
36.	Electrician G-III	i. Secondary School Certificate or equivalent Qualification from a recognized Board; and ii. Certificate as Electrician from a recognized Institute.	20-30 Years	By Initial recruitment.
37.	Operator G-III	Middle Standard and license holder in the relevant trade	20-30 Years	By Initial recruitment.
38.	Mechanic G-III	Middle Standard with certificate in the relevant field.	18-35 Years	By initial recruitment.
39.	Driver	Preferably literate having valid L.V. license.	18-35 Years	By initial recruitment.
40.	Painter G-II	Literate with four years' experience in the relevant trade.	18-30 Years	By initial recruitment.
41.	Head Jaldi	Literate with five years experience in horticulture.	18-30 Years	a. Fifty percent by initial recruitment and b. Fifty percent by promotion on basis of seniority-cum-fitness from amongst Malis with at least five years experience in relevant field.
42.	Complaint Receiver	Secondary School Certificate or equivalent Qualification from a recognized Board.	18-35 Years	By initial recruitment.
43.	Painter G-I	Middle Standard with three years experience in the relevant field.	18-35 ^{to} Years	By initial recruitment.
44.	Chimniyan / Work Mate / Cooly / (Wine / Roml Gangs).	Preferably literate with three years experience in the relevant field.	18-35 ^{to} Years	a. By promotion from amongst the relevant post on seniority-cum-fitness basis. b. By initial recruitment if no suitable candidate is available.
45.	Heavy Vehicle Cleaner / Greaser	Preferably literate with three years experience in the relevant field.	18-35 ^{to} Years	By initial recruitment.
46.	Head Boatman	Preferably literate with four years experience in the relevant field.	18-45 ^{to} Years	By initial recruitment.
47.	Badroga	Preferably literate	18-30 Years	By initial recruitment.
48.	Khalasi / Enoly / Laboratory Attendant / Sweeper / Barkandaz / Wireman / Dhobit / Chanddhar / Masalehi / Farasi / Bahisani / Dishwash / Heater / Mail / Gauge Reader / Bench Fitter / Store Attendant / Cook	Preferably literate.	18-35 ^{to} Years	By initial recruitment.

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[Handwritten signature]
 Administrative Officer
 O/D the Chief Engineer (Central)
 C&W Department, Peshawar

Cases are to be instituted in accordance with Section 96 of Forest Ordinance 2002 (Annex-VI) or compounding (Section 110, Annex-VII) has been my responsibility, which in the instant matter has not been alleged as charge.

34

PART-II

APPOINTMENT BY PROMOTION OR TRANSFER

7. Appointment by Promotion or Transfer. (1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts in other posts shall be made on the recommendation of the Provincial Selection Board and shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee.

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exist.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18 to 21 unless the officer concerned has completed such minimum length of service as may be specified from time to time.

8. Inter-Provincial Transfer:-(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:-

Provided that:-

- (i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;
- (iv) the person concerned is a bona fide resident of the North-West Frontier Province.
- (v) a vacancy exists to accommodate the request for such a transfer; and
- (vi) Provided further that in most deserving cases, the merits of which shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purpose of determining his seniority vis-a-vis other members borne on the cadre.

⁷⁶ Sub rule (1) substituted by Notification No. SOR-(S&GA)14-1/80/1, dated 10-01-1992.

Sub rule (2) added vide SOR-VI(AR)1-3/2003/108-VIII dt. 2-10-2011

such as... of the... here... shall... super... such...

Appointment by transfer.

I am directed to say that rule 7 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, provides that appointment by transfer to posts should be made:-

- (1) to posts in DPS-2 to 16 on the recommendations of the appropriate Departmental Promotion Committee;
- (2) to posts in BPS-17 and above on the recommendations of the Provincial Selection Board; and
- (3) from amongst the persons possessing qualifications and other conditions prescribed for the posts and holding appointment on regular basis in the same basic pay-scale in which the posts to be filled exist.

It has been brought to notice that in some of the departments, appointment by transfer is also made in cases where no provision for appointment by transfer exists in the relevant service/recruitment rules.

I am accordingly directed to clarify that the above provisions regarding appointment by transfer are applicable in only those cases where the appointment by transfer is specifically provided for in the relevant service/recruitment rules or in the method of appointment, qualification etc laid down for each post under sub-rule (2) of rule 3 of the aforesaid rules.

(Authority: No.SORI(S&CAD)4-1/80, dated 13th May, 1989)