

BEFORE THE HONORABLE SERVICE TRIBUNAL, PESHAWAR

In Service Appeal No.1569/2023

Rehman Shah

.... Petitioners

VS

Government of Khyber Pakhtunkhwa, & Others

.... Respondents

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Deponent

3422

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Khyber Pakhtunkhwa
Service Tribunal

File No. 10444

Date 08-1-2024

Appeal No. 1569/2023

Rehman Shah, Program Officer (BS-16)

.....Appellant

VERSIS

1. The Chief Secretary, Khyber Pakhtunkhwa.
2. The Secretary Culture, Tourism, Archaeology
3. The Secretary Finance Department
4. The Director Culture Department.

.....Respondent

Joint parawise comments in Service Appeal No. 1569/2023 on behalf of Respondents.

Respectfully sheweth:-

Preliminary Objections:-

1. That the appellant has no cause of action and locus standi to file the instant appeal.
2. That promotion is always made with immediate effect and in accordance with the Service Rules of the Department.
3. That the applicant concealed the material facts from the Hon'ble tribunal.
4. That all the employees of Directorate of Culture and Directorate of Tourist Services, Tourism Department has been declared as surplus by the Establishment & Administration Department vide letter dated.24.10.2023 **(Annex-A)**

ON FACTS:

1. Para-1 is admitted as correct to the extent that the appellant was appointed as Junior Clerk on 18.07.1993.
2. Para-2 is admitted as correct, as it was done in accordance with the service rules of the Department.

3. Para-3 is admitted as correct, as it was done in accordance with the service rules of the Department.
4. Para-4 is admitted as correct, as it was done in accordance with the service rules of the Department on the direction of the Honorable Peshawar High Court in W.P No. 1569/2023.
5. Para-5 is Incorrect and denied. The service rules for promotion of Program Officer (BS-16) to the post of Administrative Officer (BS-17) is reproduced as under: **(Annex-B)**

"By promotion on the basis of seniority-cum-fitness from amongst the holders of the post of Program Officers and Accounts Officers, having at least five years' service as such"

The Appellant was promoted as Program Officer (BS-16) on 06.02.2019 and not completed 05 years' service till 24.10.2023 (date of declaration of the employee as surplus, hence not eligible to be promoted to the post of Administrative Officer. It is further added that the employe is now placed in surplus pool is no more on the strength of this Department.

6. Incorrect. His appeal was properly examined and filed because he has not completed 05 years tenure as Program Officer (BS-16).
7. Needs no reply.



GROUND

- A. Incorrect, the appellant was treated in accordance with law and service rules of the department. It is further added that the appellant was appointed as program Officer on 06.02.2019 and has not yet complete his five years mandatory service which is required vide rules.
- B. Incorrect, the appellant was treated in accordance with law and rules on the subject and not violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan.
- C. Incorrect, as per service rules of the department, the appellant was not eligible to be promoted to the post of Administrative Officer (BS-17)
- D. Incorrect, the appellant has not completed 05 years mandatory service as Program Officer (BS-16). which is mandatory as per service rules.
- E. Incorrect, the appellant has no right to be promoted as Administrative Officer (BS-17), unless he completes 05 years' service as Program Officer (BS-16).

F. Incorrect, the department has not violated Section-9 of the Civil Servant Act, 1973 as explained in the pre-para.

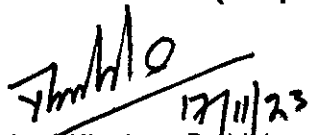
G. No comments.

H. That the respondents will argue any other ground at the time of arguments with the permission of this Hon'ble Tribunal.

It is therefore requested that the instant appeal being devoid of merits may be dismissed with cost.



Chief Secretary, Khyber Pakhtunkhwa
(Respondent No. 1)



17/11/23

Secretary to Govt of Khyber Pakhtunkhwa,
Culture, Tourism, Archaeology and
Museum Department
(Respondent No. 2)

MUTAHIR ZEB



Secretary to Govt of Khyber Pakhtunkhwa,
Finance Department.
✓ (Respondent No. 3)

AMER SULTAN TAREEN



GOVERNMENT OF, KHYBER PAKHTUNKHWA,
CULTURE & TOURISM DEPARTMENT.

13-A, KHYBER ROAD, PESHAWAR CANTT:



091- 9223448.



091-9212535.



Sportslitigation@gmail.com

NO. SO (LIT)/C&TD/1- 565-A/2023/ Rehman
Dated Peshawar the, __ December , 2023.

AUTHORITY LETTER

Mr. Muhammad Javed (BPS-17), Section Officer, is hereby authorized to submit the joint Parawise comments and attend the Service Tribunal, Peshawar in Service Appeal No. 1569/2023 titled "Rehman Shah vs Govt. of Khyber Pakhtunkhwa & others "on behalf of the undersigned till the final decision of the case.

Secretary to Govt. of Khyber Pakhtunkhwa,
Culture, Tourism & Museums Department.

BEFORE THE SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1569/2023

Rehman Shah

.... Petitioner

VS

Government of Khyber Pakhtunkhwa & Others

.... Respondents

Affidavit

I, Mutahir Zeb Secretary, Culture & Tourism Department Khyber Pakhtunkhwa, do hereby solemnly affirm and declare an oath that the contents of Parawise Comments in the above Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

It is further stated on oath that in this appeal the answering respondents have neither been placed ex parte nor their defense is struck off.

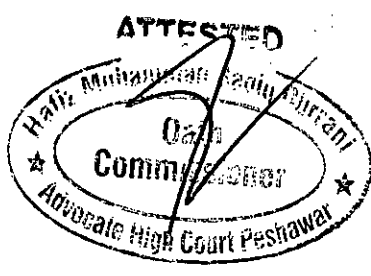
Identified By

LD. ADVOCATE GENERAL
KHYBER PAKHTUNKHWA

DEPONENT
CNIC
Cell No.

Secretary to Government
Culture, Tourism, Archaeology
& Museums Department
Khyber Pakhtunkhwa

01 JAN 2024





Annex: A

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(ESTABLISHMENT WING)
Email: soeiiisection@gmail.com

3

091-9210524

Dated Peshawar the 24th October, 2023

ORDER:

SOE-III(E&AD)/1-5/Culture & Tourist Services/2023/Vol-I: In pursuance of the provision of Section 8(iv)(a) of the Khyber Pakhtunkhwa Tourism Act, 2019, and decision of the Caretaker Provincial Cabinet in its 8th Meeting dated 09-08-2023, the following employees of the Directorate of Culture and Directorate of Tourist Services, Tourism Department, are hereby declared as surplus for further adjustment under Surplus Pool Policy, 2001:


DIRECTORATE OF CULTURE			
S#	NAME OF EMPLOYEE	DESIGNATION	BPS
1.	Ajmal Khan	Director Culture	19
2.	Amin Khan	Deputy Director	18
3.	Riaz Ahmad	Deputy Director	18
4.	Muhammad Riaz	Assistant Director	17
5.	Imran Ullah	Assistant Director	17
6.	Mazhar Ali	Accounts Officer	17
7.	Rehman Shah	Programme Officer	16
8.	Sajid Ali Shah	Assistant	16
9.	Kashif Jan	Assistant	16
10.	Naeem-ul-Haq	Senior Scale Stenographer	16
11.	Syed Azaz-ul-Hassan	Computer Operator	16
12.	Muhammad Ayaz Tajik	Computer Operator	16
13.	Junaid Thomas	Senior Clerk	14
14.	Muhammad Zahid	Senior Clerk	14
15.	Amjad Ali	Senior Clerk	14
16.	Arshad Khan	Supervisor Sound System	13
17.	Muhammad Naeem	Electrician	12
18.	Ajun Khan	Junior Clerk	11
19.	Rizwan Javed	Junior Clerk	11
20.	Sajjad Khan	Generator Operator	08
21.	Yasir Khayam	Driver	06
22.	Atta Ullah	Driver	06
23.	Noor Akbar	Security Guard	03
24.	Zia-ul-Haq	Security Guard	03
25.	Sarfraz Khan	Security Guard	03
26.	Asif Khan	Security Guard	03
27.	Wajid Khan	Security Guard	03
28.	Habib-ur-Rehman	Security Guard	03
29.	Muhammad Shahid	Security Guard	03
30.	Waheed Khan	Security Guard	03
31.	Shah Jehan Khan	Qasid	03
32.	Gul Nawaz	Naib Qasid	03
33.	Muhammad Waqas	Naib Qasid	03
34.	Muhammad Zeeshan	Naib Qasid	03
35.	Gulzar Ali	Naib Qasid	03
36.	Altaf Khan	Chowkidar	03

Attested

37.	Syed Naseem Shah	Chowkidar	03
38.	Zakir Ullah	Chowkidar	03
39.	Aman Ullah	Mali	03
40.	Sifat Ullah	Mali	03
41.	Shakil	Sweeper	03
42.	Miss Naseem	Sweeper	03
43.	Muhammad Karim	Technical Assistant	14
44.	Muhammad Javed Khan	Stage Supervisor	14
45.	Zahid Hussain	Junior Clerk	11
46.	Ghulam Rasool	Security Supervisor	11
47.	Momin Khan	Security Incharge	08
48.	Faqir Hussain	Mechanical Helper	04
49.	Jehanzeb Khan	Security Guard	04
50.	Muhammad Riaz	Security Guard	04
51.	Asad Ullah	Security Guard	03
52.	Javed Masih	Sweeper	04
53.	Muhammad Kamran	Security Guard	04
54.	Sohaib Afridi	Security Guard	03
55.	Zahid Ullah Shah	Electric Helper	03
56.	Arshad Khan	Naib Qasid	03
57.	Sajjad Ahmad	Chowkidar	03
58.	Syed Saif Ul Wahab Shah	Computer Operator	16
59.	Zubair Ali	Junior Clerk	11
60.	Obaid-ur-Rehman	Junior Clerk	11
61.	Fazal Aziz	Junior Clerk	11
62.	Mujtaba	Driver	06
63.	Sherdad Khan	Driver	06
64.	Mashal Khan	Photographer	03
65.	Arshad Ali	Carpenter	03
66.	Majeed Khan	Naib Qasid	03
67.	Shah Khalid	Naib Qasid	03
68.	Said Rehman	Naib Qasid	03
69.	Adnan Khan	Mali	03
70.	Fazal Ghani	Security Guard	03
71.	Tariq Afridi	Security Guard	03
72.	Bashir Muhammad	Security Guard	03
73.	Gohar Ali	Security Guard	03
74.	Zawar Hussain	Chowkidar	03
75.	Atta Ullah	Chowkidar	03
76.	Risalat Khan	Chowkidar	03
77.	Emmanuelle	Sweeper	03
78.	Harison Javed	Sweeper	03

DIRECTORATE OF TOURIST SERVICES

S#	Name of employee	Designation	BPS
79.	Muhammad Arabi	Additional Director General	19
80.	Naseer Ahmad	Admn. & Accounts Officer	17
81.	Awais Tahir	Admn. & Accounts Officer	17
82.	Abid Hayat Safi	Law Officer	17
83.	Asad Ikram Qazi	Assistant Director	17
84.	Raza Khan	Superintendent	17
85.	Rafiq Ahmad	Assistant	16
86.	Mian Iftikhar Ali	Assistant	16
87.	Sanober Khan	Assistant	16
88.	Waqar Muhammad	Legal Assistant	16
89.	Israr Ahmad	Computer Operator	16

Attested


90.	Muhammad Riaz Khan	Computer Operator	16
91.	Muhammad Amjad	Computer Operator	16
92.	Shaharyar Khan	Computer Operator	16
93.	Israr Ahmad Khan	Computer Operator	16
94.	Asif Shahzad	Inspector	16
95.	Muhammad Bilal	Inspector	16
96.	Hisham Khan	Inspector	16
97.	Imran Khan	Inspector	16
98.	Muhammad Fahim	Inspector	16
99.	Zer Muhammad Khan	Inspector	16
100.	Khalid Bashir	Inspector	16
101.	Sajid Khan	Accountant	14
102.	Haider Zaman	Senior Clerk	14
103.	Arshad Ali	Senior Clerk	14
104.	Muhammad Ilyas	Senior Clerk	14
105.	Ziaullah	Senior Clerk	14
106.	Muhammad Asim Khan	Sub-Inspector	14
107.	Ihsanullah Khan	Sub-Inspector	14
108.	Noor Kamal Khan	Sub-Inspector	14
109.	Haider Ali	Sub-Inspector	14
110.	Waseem Zeb Khan	Sub-Inspector	14
111.	Muhammad Ishaq	Sub-Inspector	14
112.	Saddam Hussain	Sub-Inspector	14
113.	Amjad Jamil	Assistant Sub-Inspector	09
114.	Amir Afzal Khan	Assistant Sub-Inspector	09
115.	Hassan Ali Khan	Assistant Sub-Inspector	09
116.	Muhammad Asif	Assistant Sub-Inspector	09
117.	Zeeshan Tariq	Assistant Sub-Inspector	09
118.	Shamsher Ali Khan	Assistant Sub-Inspector	09
119.	Zohaib Ullah	Assistant Sub-Inspector	09
120.	Majid Ali Shah	Assistant Sub-Inspector	09
121.	Muhammad Sirajuddin	Assistant Sub-Inspector	09
122.	Sharif Ullah	Head Constable	07
123.	Khalil-ur-Rehman	Head Constable	07
124.	Noorad Ali	Head Constable	07
125.	Huzaif Ali Shah	Head Constable	07
126.	Irfan Ullah Khan	Driver	06
127.	Imdad Ullah	Driver	06
128.	Kamran Khan	Constable	05
129.	Abbas Mehdi	Constable	05
130.	Abdul Wadood	Constable	05
131.	Muhammad Safeem	Constable	05
132.	Qasim Khan	Constable	05
133.	Naseer Khan	Constable	05
134.	Umar Farooq	Constable	05
135.	Salman Khan	Constable	05
136.	Luqman Khan	Constable	05
137.	Mujahid Khan	Constable	05
138.	Mubarak Zeb	Constable	05
139.	Qadir Khan	Constable	05
140.	Shanzaib	Constable	05
141.	Attaullah	Constable	05
142.	Faiz Muhammad	Constable	05
143.	Mushatmil Shah	Dispatch Rider	05
144.	Shabbir Ahmad	Duplicate Machine Operator	04
145.	Muhammad Alamgir Khan	Naib Qasid	03
146.	Saeed Ullah	Naib Qasid	03
147.	Hamza Khan	Naib Qasid	03


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[Signature]

148.	Muhammad Nawaz	Naib Qasid	03
149.	Kamran Khan	Naib Qasid	03
150.	Hammad Raza	Naib Qasid	03
151.	Muhammad Naeem	Naib Qasid	03
152.	Ibne Ali	Naib Qasid	03
153.	Mohsin Jan	Naib Qasid	03
154.	Umar Zada	Naib Qasid	03
155.	Sajjad Ullah	Naib Qasid	03
156.	Muhammad Umar	Naib Qasid	03
157.	Bismillah Jan	Chowkidar	03
158.	Imdad Ullah	Chowkidar	03
159.	Nouman Amjad	Chowkidar	03
160.	Noor-ul-Amin	Chowkidar	03
161.	Muhammad Zubair	Chowkidar	03
162.	Shahid Ullah	Chowkidar	03
163.	Mehmood ul Hassan	Chowkidar	03
164.	Yousaf Masih	Chowkidar	03

2. Consequent upon the above, all the mentioned Surplus Employees are directed to report to office of the Deputy Secretary (Establishment), Establishment Department along with their service record, for further necessary action, please.

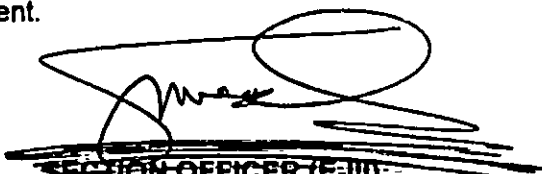
Yours faithfully,

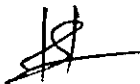

 (SHER BAZ KHAN)
 SECTION OFFICER (E-III)

Endst: of even No. & Date:

Copy forwarded to

1. Secretary to Govt. of Khyber Pakhtunkhwa, Tourism Department.
2. PS to Special Secretary (Estt:), Establishment Department.


 SECTION OFFICER (E-III)

Attested


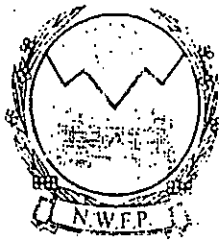
EXTRA

GOVT

Ref: 17

Annex B

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REGISTERED NO. P.III

GAZETTE

North-West Frontier Province

Published by Authority

PESHAWAR, TUESDAY, 25TH AUGUST, 2009.

GOVERNMENT OF N.W.F.P.
SPORTS, CULTURE, TOURISM, YOUTH AFFAIRS,
ARCHAEOLOGY & MUSEMS DEPARTMENT

NOTIFICATION

Dated 4th March, 2009.

No. SO(Culture)I-I/2008. In pursuance of the provisions contained in sub-rule (2) of rule 3 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in consultation with Establishment Department and Finance Department, the Sports, Culture, Youth Affairs, Archaeology & Museums Department, hereby lays down the method of recruitment, qualification and other conditions specified in column No. 3 to 5 of the Appendix to this Notification, which shall be applicable to the posts in the Directorate of Culture North-West Frontier Province, specified in column 2 of the said Appendix.

SECRETARY TO GOVT. OF N.W.F.P.
SPORTS, CULTURE, TOURISM, YOUTH AFFAIRS,
ARCHAEOLOGY & MUSEMS DEPARTMENT.

A. I. I. I. I.

AS

123

124 N.W.F.P. GOVERNMENT GAZETTE, EXTRAORDINARY, 25th AUGUST, 2009

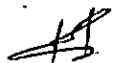
APPENDIX

S.No.	Nomenclature of the Post	Qualification for appointment by initial recruitment	Age limit	Method of recruitment
1	2	3	4	5
1.	Director	---	---	(a) By transfer of an officer of the Provincial Government; or (b) By promotion, on the basis of seniority-cum-fitness, from amongst the holder of the post of Deputy Directors having seven years service as such or 12 years service in BPS-17 and above.
2.	Deputy Director	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Directors and Administrative Officers, having at least five years service as such; Provided that if no suitable officer is available for promotion, then by transfer of an officer from Provincial Government.
3.	Assistant Director	2nd Class Master's Degree in Social Sciences from a recognized University and Diploma or Certificate in Fine Arts or Dramatics or Painting, from a recognized institution.	21-32 years.	By initial recruitment.
4.	Administrative Officer.	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Programme Officers and Accounts Officers, having at least five years service as such; Provided that if no suitable officer is available for promotion, then by transfer of an officer from Provincial Government.
5.	Computer Programmer	2nd Class Master's Degree in Computer Science or equivalent qualification from a recognized University.	21-32 years.	By initial recruitment.

Attestd
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N.W.F.P. GOVERNMENT GAZETTE, EXTRAORDINARY, 25th AUGUST, 2009. 125

6.	Programmer Officer			By promotion on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistants with at least five years service as such. Provided that if no suitable officer is available for promotion, then by transfer of an officer from Provincial Government.
7.	Accounts Officer	2nd Class B.Com/BBA Degree from a recognized University.	21-32 years.	By promotion on the basis of seniority-cum-fitness, from amongst the holders of the post of Accountants with at least five years service as such. Provided that if no suitable officer is available for promotion, then by transfer of an officer from Provincial Government.
8.	Senior Scale Stenographer	(a) B.A./B.Sc. or equivalent qualification from a recognized University. (b) Speed of 80 and 40 words per minute in Shorthand and Typing respectively; and (c) Knowledge of Computer in using MS Word and MS Excel.	18-30 years.	By promotion on the basis of seniority-cum-fitness, from amongst the holders of the post of Junior Scale Stenographers with at least five years service as such. Provided that if no suitable candidate is available for promotion, then by initial recruitment.
9.	Assistant	2nd Class Bachelor's Degree from a recognized University.	18-30 years.	(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Senior Clerks having five years service as such; Provided that if no suitable official is available for promotion, then by transfer of a suitable official from the Government Department; and (b) Fifty per cent by initial recruitment.
10.	Junior Scale Stenographer	(a) Intermediate or equivalent qualification from a recognized Board.	18-30 years.	By initial recruitment.

Attested


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126 N.W.F.P. GOVERNMENT GAZETTE, EXTRAORDINARY, 25th AUGUST, 2009

		(b) Knowledge of Computer in using MS Office: and (c) Speed of 50 and 35 words per minute in Shorthand and Typing respectively.		
11.	Sound Supervisor.	Three years diploma of Associate Engineering in Electronics/Electrical from a recognized institution with at least one year experience in the relevant field.	18-30 years.	By initial recruitment.
12.	Accountant	B.Com/BBA from a recognized University.	18-30 years.	By initial recruitment.
13.	Electrician	Diploma in Associate Engineering in Electrical from a recognized Board/ Institution.	18-30 years.	By initial recruitment.
14.	Key Punch Operator	(a) Intermediate or equivalent qualification from a recognized Board; (b) One year Diploma in Computer Science or equivalent qualification from a recognized Institution; and (c) Speed of 1000 key depressions per hour.	18-30 years.	By initial recruitment.
15.	Senior Clerk	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Junior Clerks having two years service as such.
16.	Junior Clerk	(a) Secondary School Certificate or equivalent qualification from a recognized Board; and (b) Speed of 30 words per minute in typing.	18-30 years.	By initial recruitment.

Attested
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N.W.F.P. GOVERNMENT GAZETTE, EXTRAORDINARY, 25th AUGUST, 2009. 127

17.	Generator Operator	Secondary School Certificate or equivalent qualification from a recognized Board with one year certificate of Auto-Mechanic from a recognized institute.	18-35 years.	By initial recruitment.
18.	Driver	Middle Pass. Possessing valid HTV/LTV Driving Licence.	18-35 years.	By initial recruitment.
19.	Naib Qasid	Preferably literate.	18-35 years.	By initial recruitment.
20.	Security Guard	Preferably literate.	18-35 years.	By initial recruitment.
21.	Chowkidar	Preferably literate.	18-35 years.	By initial recruitment.
22.	Mali	Literate. Experience in gardening will be preferred.	18-35 years.	By initial recruitment.
23.	Sweeper		18-35 years.	By initial recruitment.

Attested

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KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. CS 1 ST Dated: 29/8/2023

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212282

To:

The Additional Advocate General,
Khyber Pakhtunkhwa,
Service Tribunal, Peshawar.

Subject: OBJECTIONS FOR FILING REPLY/COMMENTS BEFORE THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Dear Sir,

I am directed to refer to the subject noted above and to state that prior to submission of reply/comments before Service Tribunal, the following objection should be addressed to avoid unnecessary adjournments in service appeals:

1. In case of dismissal, removal and termination or other punishment on the basis of enquiry proceedings copies of charge sheet, statement of allegation, show cause notice, enquiry report and replies thereto should be attached with the reply/comments. Complete enquiry proceedings including statements recorded during the enquiry, documents produced and relied by the enquiry officer/committee shall also be annexed.
2. In case of promotion working papers/minutes of Provincial Selection Board/Departmental Promotion Committee and seniority lists should be attached with the reply/comments.
3. The index should be properly filed.
4. The index page be signed by the answering respondents/counsel for answering respondents/deponent.
5. All the pages except the index page be properly numbered.
6. Copies of annexures should be certified/attested.
7. Copies of annexures should be legible.
8. Reply/comments should duly signed by the answering respondents.
9. Affidavit should be appended.
10. Affidavit should be attested by the oath commissioner.
11. Affidavit should be signed by the deponent.
12. Well conversant officer of Grade-17 alongwith all relevant original record shall be present before the Tribunal.
13. Authority letter duly signed and stamped by the authority concerned should be filed.

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

A. J. Steel
