

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

**SERVICE APPEAL NO. 1492/2023**

**Sherin Khan and others**

**Appellant**

***VERSUS***

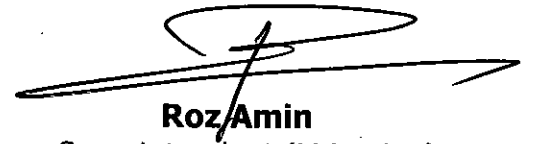
**Chief Secretary, Khyber Pakhtunkhwa & others**

**Respondents**

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**Deponent**



**Roz Amin**  
Superintendent (Litigation)  
Irrigation Department

12-2-24  
Peshawar

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

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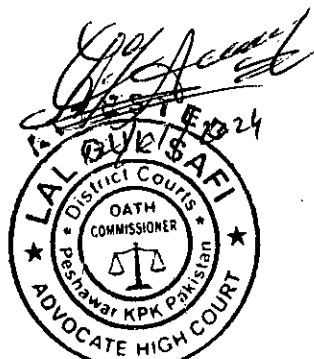
**Respondents**

**AFFIDAVIT**

I, Muhammad Tahir Orakzai, Secretary to Government of Khyber Pakhtunkhwa, Irrigation Department on behalf of following respondents (No.02-06) do hereby affirm and declare on oath that the contents of para-wise comments are true and correct to the best of my knowledge and belief that nothing has been kept concealed from this Hon'ble Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense/ struck off/ cost.

  
**(Muhammad Tahir Orakzai)**

Secretary to Govt. of Khyber Pakhtunkhwa,  
Irrigation Department  
**Respondent No. 2**





2/1

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA**

**Service Appeal No. 1492/2023**

Sherin Khan and others.....Appellant

**Versus**

Chief Secretary, Khyber Pakhtunkhwa and others ..... Respondents

**JOINT PARA-WISE COMMENTS ON BEHALF OF THE RESPONDENTS**

**RESPECTFULLY SHEWETH:**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 10542

Dated 18-1-2024

**Preliminary objections:**

1. That the appellant has got no cause of action/locus standi.
2. That the appellant has not come to this court with clean hands.
3. That the appellant has concealed some material facts from this Hon'ble Court.
4. That the appellant is disentitled for the relief claimed.
5. That the instant appeal is not maintainable on the ground that an identical Service Appeal No. 7917/2021 titled Engr. Imtiaz Khan VS Govt. of Khyber Pakhtunkhwa on the same facts and grounds has already been decided by the Hon'ble Tribunal vide judgement dated 13.07.2023.

**ON FACTS**


1. No Comments pertains to record.
2. No Comments. However, it is clarified that as per service rules notified by Irrigation Department vide notification no. SOE/Irr/23-5/73/Vol-VI dated 24.08.2021, in consultation with Establishment Department, Finance Department and Law Department, has allocated 12% quota for promotion of SDOs having B-Tech Honor Degree Holder and 08% quota for promotion of Diploma Holder SDOs through proper procedure of Standing Service Rules Committee (SSRC) **(Annex-I)**.
3. Incorrect. The Government servants are governed under Civil Servant Act, 1973 and not under the PEC Act, 1976.
4. Incorrect, Para-03 above is reiterated.
5. Incorrect. The appeal of the appellant was properly examined and filed being devoid of merit.
6. No Comments.

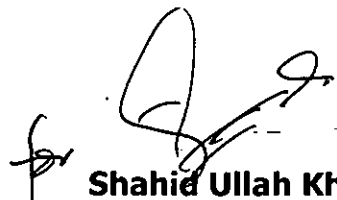
**GROUND**


1. Incorrect. The SSRC was convened in accordance with law.
2. Incorrect. No violation of Constitution of Pakistan has been done.
3. Incorrect. In light of the amendment in service rules dated 24.08.2021, the B-Tech and Diploma Holder SDOs are also eligible for promotion to BS-18.
4. Incorrect. Para-03 of the facts is reiterated.
5. Correct to the extent that the committee was constituted, however, in consultation with Establishment Department, Finance Department and Law Department, has allocated 12% quota for promotion of SDOs having B-Tech Honor Degree Holder and 08% quota for promotion of Diploma Holder SDOs through proper procedure of Standing Service Rules Committee (SSRC).
6. Correct. The Service Rules of Irrigation Department were amended and 12% share quota for Sub Engineers having B-Tech Honor Degree and 8% quota for Diploma Holders Sub Engineers was reserved on 25.06.2012.

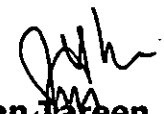
7. Incorrect. As per amended service-rules of Irrigation Department dated 24.08.2021, the B-Tech Degree Holder and Diploma Holder SDOs are eligible to be posted against BS-18 post.
8. Incorrect. Para-7 above is reiterated.
9. Incorrect. The Civil Servants are governed under Civil Servant Act, 1973 and not under PEC Act, 1976.
10. Incorrect. Para-9 above is reiterated.
11. Incorrect. The Hon'ble Supreme Court of Pakistan in its decision in CP No. 78-K/2015 announced on 03.10.2018 has allowed 13% quota for B-Tech Degree Holder and 7% for Diploma Holder SDOs for promotion to the post of BS-18.
12. Incorrect. Para-7 above is reiterated.
13. Incorrect. Para-9 above is reiterated.
14. Incorrect. Para-9 above is reiterated.
15. Incorrect. Para-9 above is reiterated.
16. Incorrect. Para-9 above is reiterated.
17. Pertains to record.
18. Incorrect. Para-9 above is reiterated.
19. Incorrect. Hence, denied.
20. No Comments.

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

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**(Muhammad Tahir Orakzai)**  
 Secretary to Govt. of Khyber  
 Pakhtunkhwa,  
 Irrigation Department  
**Respondent No. 2**

()  
**Shahid Ullah Khan**  
 Secretary to Govt. of Khyber  
 Pakhtunkhwa,  
 Establishment Department  
**Respondent No. 3**  
**Through Kaleem Ullah Baloch**  
 Special Secretary, Establishment

()  
**Akhtar Saeed Turk**  
 Secretary to Govt. of Khyber  
 Pakhtunkhwa,  
 Law & Parliamentary Affairs Department  
**Respondent No. 4**

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**Amir Sultan Tareen**  
 Secretary to Govt. of Khyber  
 Pakhtunkhwa,  
 Finance Department  
**Respondent No. 5**

()  
**Muhammad Yaseen**  
 Chief Engineer (South),  
 Irrigation Department  
**Respondent No. 6**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
IRRIGATION DEPARTMENT

Dated Peshawar the 24<sup>th</sup> August, 2021

**NOTIFICATION**

**No. SO(E)/IRRI/23-5/73/Vol-VI:** In pursuance of the provisions contained in sub-rule (2) of rule-3, of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Irrigation Department, in consultation with the Establishment Department and Finance Department, hereby direct that in this Department's Notification No. SO(E)IRR/23-5/73 dated 17.02.2011, the following further amendments shall be made namely:-

**AMENDMENTS**

In the APPENDIX,-

- (a) under the heading "PART-I ENGINEERING STAFF", against Serial No. 3, in Column No. 5, for the existing entries, the following shall be substituted, namely:-

5	
(a)	Eighty percent (80%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Engineer, Sub Divisional Officer and Assistant Director possessing Degree in B.E/B.Sc Engineering (Civil or Mechanical) from a recognized University with at least five years service as such and have passed the Professional or Revenue Examination under the prescribed rules;
(b)	twelve percent (12%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Engineer, Sub Divisional Officer and Assistant Director possessing Degree in B. Tech (Hons) from a recognized University with at least five years service as such and have passed the Professional and Revenue Examination under the prescribed rules; and
(c)	eight percent (08%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Engineer, Sub Divisional Officer and Assistant Director possessing Diploma of Associate Engineering in (Civil, Mechanical, Auto and Electrical) Technology from a recognized Board of Technical Education with at least five years service as such and have passed the Professional and Revenue Examination under the prescribed rules.
<b>Note:</b>	A separate seniority list of all the three categories of the Assistant Engineers, Sub Divisional Officers and Assistant Directors shall be maintained for the purpose of promotion"; and

*Accepted*

*[Signature]*  
Section Officer (Litigation)  
Irrigation Department Peshawar

*[Signature]*

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(b) under the heading "PART-V DRAWING ESTABLISHMENT", against Serial No. 26, in Column No. 5, for the existing entries, the following shall be substituted, namely:


5	
"(a)	Seventy percent (70%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Tracer who have qualified the prescribed Examination of Draftsman with three years service as such; and
(b)	thirty percent (30%) by initial recruitment".

Secretary to Govt. of Khyber Pakhtunkhwa  
Irrigation Department

**Endst: No and date even**

Copy of the above is forwarded:-

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
  2. The Secretary to Governor, Khyber Pakhtunkhwa.
  3. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
  4. The Accountant General, Khyber Pakhtunkhwa.
  5. The Additional Accountant General (PR, Sub Office), Peshawar.
  6. All the Commissioners in Khyber Pakhtunkhwa.
  7. The Chief Engineers (North)/South & Merged Areas) Irrigation Department, Khyber Pakhtunkhwa.
  8. All Deputy Commissioners in Khyber Pakhtunkhwa.
  9. The Registrar, Peshawar High Court, Peshawar.
  10. The Secretary, Board of Revenue, Khyber Pakhtunkhwa.
  11. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
  12. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
  13. PS to Chief Secretary, Khyber Pakhtunkhwa.
  14. PS to Secretary Irrigation Department, Peshawar.
  15. The Manager Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar.
- He is requested to supply 200 copies of the printed gazette, for further distribution.
16. PA to Additional Secretary, Irrigation Department, Peshawar
  17. PA to Deputy Secretary (Admn) Irrigation Department.

  
(ABDUL RAUF)  
Section Officer (Estt)

*Accepted*  
*[Signature]*  
Section Officer (Litigation)  
Irrigation Department Peshawar

6/10/23

## POWER OF ATTORNEY

I, Secretary to Govt. of Khyber Pakhtunkhwa Irrigation Department do hereby authorize Mr. Rbz Amin, Superintendent (Litigation Section), Irrigation Department to file comments and make statement before the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 1492/2023 filed by Sherin Khan and others VS Chief Secretary, Khyber Pakhtunkhwa & others.

(  )

Secretary to Govt. of Khyber Pakhtunkhwa,  
Irrigation Department  
**Respondent No. 2**

(  )

Secretary to Govt. of Khyber Pakhtunkhwa,  
Establishment Department  
**Respondent No. 3**  
Through **Kaleem Ullah Baloch**  
Special Secretary, Establishment

(  )

Secretary to Govt. of Khyber Pakhtunkhwa,  
Law & Parliamentary Affairs Department  
**Respondent No. 4**

(  )

Secretary to Govt. of Khyber Pakhtunkhwa,  
Finance Department  
**Respondent No. 5**

(  )

Chief Engineer (South),  
Irrigation Department  
**Respondent No. 6**