

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

①

CM No. 315/2022 in S.A No. 5965-A/2021

Mr. Muntazir Khan.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

IMPLEMENTATION REPORT ON BEHALF OF RESPONDENTS NO. 01 to 04

INDEX

S. #	Description of Documents	Annex/Flag	Pages
1.	Implementation Report		2-3
2.	Affidavit		4
3.	Minutes of PSB Meeting dated 19.09.2023	I	5-7

S. Muntazir Khan
Deponent

(2)

BEFORE THE HON'BLE SERVICES TRIBUNAL PESHAWAR

C.M NO. 315/2022
IN SERVICE APPEAL NO. 5965-A/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10735

Dated 23-1-2024

IMPLEMENTATION REPORT ON BEHALF OF
RESPONDENTS NO. 1 TO 4

Respectfully Sheweth;

- 1) That the Hon'ble Service Tribunal has passed the following Judgment on 14.07.2023 in the case of Mr. Muntazir Khan (Appellant):-


"Representative of the respondents produced copy of record containing Promotion Policy dated 28.01.2009, he referred to Para. 1(a) of the circular ibid states that for promotion to BS-20 a total of 17-years' service is required in BS-17 & above. Since, the total required length of service of the Petitioner was 15-years i.e less than 02-years of the total required service, therefore, he was not eligible for consideration for promotion to BS-20.


However, Para (b)(i) of the same circular states that service in lower pay scale also be counted in the way prescribed in (i) and (ii) of the same circular states which in the case of the petitioner has not been taken into account for calculating his total length of the service. Learned Assistant Advocate General endorsed this fact and stated that he has no objection if respondents are directed to reconsider the case on this account.


Respondents are therefore directed to reconsider the calculation of total length of service of the Petitioner as per above policy circular letter and place his case before the PSB for consideration of his proforma promotion. Objection petition submitted by the respondents is disposed off in the above terms and respondents are directed to submit implementation report on the next date. Adjourned. To come up for implementation report on 23.08.2023 before Service Tribunal."

- 2) That in pursuance of the directions of the Hon'ble Services Tribunal, the Establishment Department considered the Khyber Pakhtunkhwa Service Tribunal Judgment dated 14.07.2023 and placed the case of the appellant (a retired officer) before the Provincial Selection Board (PSB) and Provincial Selection Board in its meeting held on 19.09.2023 observed that "*Due to lack of required length of service and no PERs in BS-19, the appellant was not promoted from PCS EG BS-19 to BS-20. Moreover, the services in BPS-16 and ¼ in basic scale lower than BPS-16 are only counted for promotion to BS-18 as referred in the Services Tribunal Judgment dated 14.07.2023. Hence, the Board did not recommend his proforma promotion to PCS EG BS-20*"(Annex-I).

3) That the answering respondents have fully complied with the above orders of the Hon'ble Service Tribunal in true letter and spirit. It is, therefore, most humbly prayed that the instant Execution Petition in Service Appeal No. 5965-A/2021, being devoid of merit, may very graciously be dismissed, please.


for Shahidullah Khan, Secretary
Establishment through Kaleem Ullah
Baloch, Special Secretary Establishment
(RESPONDENT No. 3)


(AKHTAR SAEED TURK)
SECRETARY LAW & HUMAN RIGHTS
KHYBER PAKHTUNKHWA
(RESPONDENT NO. 4)


for Nadeem Aslam Chaudhry, Chief Secretary
through Kaleem Ullah Baloch, Special Secretary Establishment
(RESPONDENT NO. 1&2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

C.M No. 315/2022 in Service Appeal No. 5965-A/2021

Muntazir Khan, Ex-PMS Officer (BS-19).....Appellant

Versus

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

OBJECTION PETITION ON BEHALF OF OBJECTORS

AFFIDAVIT

I Sultan Shah Superintendent (Litigation) Establishment Department do hereby solemnly declare that contents of the Reply are correct to the best of my knowledge and record and nothing has been concealed from this Honourable Tribunal.

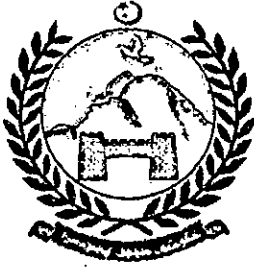
Mobile No. 0333-9744944



Deponent
[Signature]
for **Nadeem Aslam Chaudhry,**
Chief Secretary through
Kaleem Ullah Baloch, Special
Secretary Establishment
CNIC: 11101-1464320-1

**IMMEDIATE
CONFIDENTIAL**

Annex = 1
5



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

NO. SO(PSB)ED/1-1/2023/P-610
Dated Peshawar the 01.11.2023

To

✓
The Section Officer (E-I),
Establishment Department.

**SUBJECT: - MINUTES OF THE MEETING OF PROVINCIAL SELECTION BOARD
HELD ON 19.09.2023.**

**APPEAL NO 5965-A/2021 MR. MUNTAZIR KHAN VS GOVERNMENT
OF KHYBER PAKHTUNKHWA & OTHERS (COURT CASE)**

I am directed to refer your U.O. No. SOE-I/E&AD/5-1/2023 dated 11.09.2023 on the subject and, to forward herewith an extract of Agenda Item No (55) of the minutes/recommendations of the meeting of Provincial Selection Board held on 19.09.2023 as well as copy of approved summary wherein the Chief Minister, Khyber Pakhtunkhwa being competent authority in terms of Rule 4 (1) (a) of the Khyber Pakhtunkhwa (Appointment, Promotion & Transfer) Rules, 1989 has approved the recommendations of the PSB, for further necessary action.

1/11/23
SECTION OFFICER (PSB)

Encl: As Above.

ITEM NO. (55)

ESTABLISHMENT DEPARTMENT

(Meeting of PSB held on 19.09.2023)

SUBJECT APPEAL NO. 5965-A/2021 – MUNTAZIR KHAN VS GOVT OF KHYBER PAKHTUNKHWA AND OTHERS (COURT CASE).

Meeting of the PSB was held on 19.09.2023 at 11:00 AM under the Chairmanship of Chief Secretary, Khyber Pakhtunkhwa. Apart from the regular members of PSB, Secretary Law also attended the meeting on special invitation. The Agenda before the PSB was to consider the proforma promotion of Muntazir Khan, PCS EG BS-19 (retired on 07.05.2021).

2. Special Secretary, Establishment apprised the Board that the present case is being placed before the Board in pursuance of Execution Petition No. 315/2022 filed in the Service Tribunal in Service Appeal No. 5965-A/2021, wherein the Court directed the Respondent Department to reconsider the calculation of total length of service of the petitioner and place his case before the Provincial Selection Board for consideration of his proforma promotion and also directed to submit implementation report.

3. Brief history of the case is that Mr. Muntazir Khan (appellant) joined the government service as PCS EG BS-17 on 23.12.2006, promoted to BS-18 on 09.10.2012. He was promoted to BS-19 on 03.10.2019 subject to final decision of Supreme Court and retired from service on 07.05.2021 in BS-19 on attaining the age of superannuation. His promotion case to BS-20 was discussed in the PSB meeting held on 31.12.2020. Since he had availed the facility of VR in a NAB case, therefore, he was conditionally promoted to BS-19, therefore, PSB deferred his promotion as there is neither any ground nor justification for two consecutive conditional promotion. Moreover, at that time, he had neither earned any PER in BS-19 nor completed the prescribed length of service required for promotion to BS-20.

4. Being aggrieved, he filed Service Appeal No. 5965-A/2021 in the Hon'ble Service Tribunal Peshawar which was later on converted into Execution Petition No. 315/2022 and the Hon'ble court allowed his petition and directed "to reconsider the calculation of total length of service of the petitioner as per circular letter dated 28.01.2009 and place his case before the Provincial Selection Board for consideration of his proforma promotion and also submit implementation report". The department has filed CPLA in the Supreme Court of Pakistan which is still pending.

[Handwritten signature]

Attended
Secretary (PSB)
Govt. of Khyber Pakhtunkhwa
Establishment Department

5. After threadbare discussion, the Board observed that due to lack of required length of service and no PERs in BS-19, the appellant was not promoted from PCS EG BS-19 to BS-20. Moreover, the services in BPS-16 and ¼ in basic scale lower than BPS-16 are only counted for promotion to BS-18 as referred in the Services Tribunal judgment dated 14.07.2023. Hence, the Board did not recommend his proforma promotion to PCS EG BS-20.

JMS

Attested
P. J. [Signature]
Section Officer (PSB)
Govt. of Karnataka, Government
Establishment Department