

20.11.2019

Nemo for appellant.

On the last date of hearing fresh notices were required to be issued to the appellant as well as his learned counsel. The record suggests that notice to appellant was duly sent through registered post while learned counsel was also issued the requisite notice. Despite, the appellant is not represented today even after repeated calls.

Dismissed for non-prosecution. File be consigned to the record room.

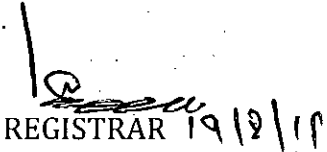


Chairman 

Announced:  
20.11.2019

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- \_\_\_\_\_ 1061/2019 \_\_\_\_\_

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/08/2019	<p>The appeal of Mr. Fazli Hadi resubmitted today by Hafiz Fateh-ur-Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 19/08/19</p>
2-	20/08/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/10/2019</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	01.10.2019	<p>Nemo for appellant.</p> <p>Notice be issued to appellant/learned counsel for preliminary hearing on 20.11.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>

BS

This is an appeal filed by Mr. Fazli Hadi on 25/03/2019 for inclusion his previous service and promotion to the post of Senior Public Prosecutor against which he preferred/made departmental appeal/ representation on 16.02.2019 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned again in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiency.

- 1- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal

No. 757/ST,

Dt. 15/4 /2019

*Hafiz Fatch-ur-Rehman*

Hafiz Fatch-ur-Rehman Adv.  
High Court Nowshera.

*15/4/19*  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

*The objection has been removed*

*[Signature]*

*23/7/19*

→ *objection no. 1 still stand  
re-submitted after satisfied all objections  
raised by honorable office/court.*

*Hafiz Fatch-ur-Rehman*  
*Hafiz Fatch-ur-Rehman*  
*19/3/2019*

The appeal of Mr. Fazli Hadi, Deputy Public Prosecutor Nowshera received today i.e. on 25.03.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be flagged.
- 3- Affidavit may be got attested by the Oath Commissioner.
- 4- Memorandum of appeal is miss-printed.
- 5- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 6- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 7- Annexures of the appeal are illegible which may be replaced by legible/better one.
- 8- Law under which appeal is filed is not mentioned.
- 9- Index of the appeal may be prepared according to Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 10- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No: 512 /S.T,

Dt. 25/3 /2019

*Hafiz Fateh-ur-Rehman*

Hafiz Fateh-ur-Rehman Adv.  
High Court Nowshera.

*[Signature]*  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

*R/sir*  
*Re submitted after satisfied all objection*  
*Raised by the honorable office*

*counsel for appellant.*

*[Signature]*

*Hafiz Fateh-ur-Rehman*  
*Advocate*

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

Service Appeal No. 1061 12013

Fazli Hadi

Versus

Chief Secretary, Govt. of Khyber Pakhtunkhwa Peshawar & others

**I N D E X**

S.No.	Description of Documents	Annex	Pages
1.	Memorandum of Appeal	A	1-3
2.	Affidavit		4
3.	Copy of Departmental Appeal	B	5-6
4.	Post Office Registered Slip	C	7
5.	Initial Appointment Order as PSI (BPS-14)	D	8
6.	Post Up-gradation Order of the APP to BPS-16 with Better Copy	E	9-10
7.	Notification – Posting Order of the Appellant as DPP on OPS dated 15.10.2019.	F	11
8.	Notification – on Acting Charge Promotion as to the DPP	G	12
9.	Notification – Promotion to the Post of Deputy Public Prosecutor on Regular Basis dated 29.05.2018	H	13

Through

Appellant



**HAFIZ FATEHUR REHMAN**  
Advocate High Court  
Cell: 0331-9116728

Dated: 19 /08/2019

①

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

Service Appeal No. 1061 12019

Fazli Hadi, Deputy Public Prosecutor (BPS-18),  
Presently posted at District Nowshera.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 385

Dated 25/3/2019

Versus

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Home Secretary, Khyber Pakhtunkhwa, Peshawar.
3. Director General Prosecution, Khyber Pakhtunkhwa, Peshawar.

Subject:-

**APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, FOR INCLUSION OF SERVICES OF THE APPLICANT RENDERED IN BPS-14 AND BPS-16 IN VIEW OF CHAPTER 13 PAGE 4 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS PAY REVISION RULES 1978 AND SUBSEQUENT REVISIONS FOR THE PURPOSE OF PROMOTION TO THE POST OF SENIOR PUBLIC PROSECUTOR BPS-19.**

Respectfully Sheweth,

It is submitted as under:-

1. That the appellant has been appointed as Prosecuting Sub Inspector (PSI) in Police Department and was adjusted in the Prosecution Services as Assistant Public Prosecutor and rendered services in BPS-14 w.e.f 08.12.1990 till 29.06.2007 and as such 1/4<sup>th</sup> of total service is to be included/counted for the purpose of onward promotion.
2. That since 30.06.2007, the appellant performed his duties in BPS-16 as Assistant Public Prosecutor till 15.10.2009. Therefore, for the purpose of seniority 1/2(half) of total service in BPS-16 is to be counted for the purpose of onward promotion.
3. That the appellant was posted against the post of Deputy Public Prosecutor on own pay scale vide Notification No.SO(Prosecution)/HD/1-2/2008/Vol-V dated: 15.10.2009.
4. That on 27.02.2012, the appellant was promoted on acting charge basis to the post of Deputy Public Prosecutor vide Notification No.SO(Prosecution)/HD/1-2/2011 dated: 27.02.2012 to the post of Deputy Public Prosecutor and the probation period of 01 years was completed on 27.02.2013.

Filed to-day

Registrar

25/3/19

Re-submitted to -day  
and filed.

Registrar 19/3/19

(2)

5. That vide Notification No.SO(Prosecution)/HD/1-2/2017/Vol-I Dated: 29.05.2018 the appellant was promoted to the post of Deputy Public Prosecutor BPS-18 on regular basis after continuous service on the same post w.e.f 16.10.2009 till date.
6. That services rendered by the appellant since PSI/Assistant Public Prosecutor in BPS-14 w.e.f 08.12.1990 to 15.06.2007, 1/4<sup>th</sup> of the total period/service and rendered as Assistant Public Prosecutor since 16.06.2007 to 15.10.2009 in BPS-16 (1/2half of the total service/period) as well as services rendered against the post of Deputy Public Prosecutor since 16.10.2009 are to be included for the purpose of promotion to the post of Senior Public Prosecutor in view of chapter 13 Page4 of the Khyber Pakhtunkhwa Civil Servants pay Revision Rules and subsequent Revisions.
7. That as per judgement of the August Supreme Court of Pakistan in case 2006 SCMR Page 1938 "Luqman Zarin and others" ---**S. 8---Promotion--- Principle--- Acting Charge--- Departmental promotion committee issued delayed notification---Effect--- Where a post was available against which a civil servant could be promoted; where such civil servant was qualified to be promoted to such a higher post; where he was put on such higher post on officiating or acting charge basis only because requisite exercise of allowing regular promotion to such post was being delayed by competent authority and where he was subsequently found fit for such promotion and was so promoted on regular basis, then the civil servant was entitled not only to the salary attaching to such post but also all consequential benefits from that very date from which he had put on the said post on officiating or acting charge basis.**
8. That in view of the above facts, the appellant is eligible for promotion to the post of senior public Prosecutor on seniority/fitness basis, having completed probation period on the post of Deputy Public Prosecutor in the Year 2012-13.
9. That several posts of Senior Public prosecutors are lying vacant in the Directorate of Prosecution Khyber Pakhtunkhwa since long.
10. That the applicant is going to be retired on 02.10.2020.

3

- 11. That the applicant has already submitted an application of the same nature vide No.468/DPP/NSR dated: 09.10.2018 which has not been decided so far.
- 12. That the appellant has approached the department through representation and subsequently departmental appeal vide registry No.639 dated: 26.02.2019 but with no fruitful results (copy of the postal registry receipt is attached).

**PRAYER:**

It is humbly prayed that keeping in view the above facts the respondents may be directed to promote the appellant to the post of Senior Public Prosecutor being Senior and eligible. The applicant has already submitted an application of the same nature vide No.468/DPP/NSR dated: 09.10.2018 which has not been decided so far.

Date: 10/4/2019

Appellant  
I, the undersigned, have represented the appellant through representation vide No.639 dated: 26.02.2019 but with no fruitful results.

**FAZLI HADI**  
Deputy Public Prosecutor (BPS-18)  
Nowshera.

RECEIVED

It is humbly prayed that keeping in view the above facts the respondents may be directed to promote the appellant to the post of Senior Public Prosecutor being Senior and eligible.

Through

The above facts the respondents may be directed to promote the appellant to the post of Senior Public Prosecutor being Senior and eligible.

*(Signature)*  
(Hafiz Fateh ur Rehman)  
Advocate  
(High Court)  
Cell No.0331-9106728

Deputy Public Prosecutor (BPS-18)  
Nowshera.

(Hafiz Fateh ur Rehman)  
Advocate  
(High Court)  
Cell No.0331-9106728



**BEFORE THE KHBER SERVIC TRIBUNAL**  
**PESHAWAR**

Service Appeal No:- \_\_\_\_\_/2019  
Fazli Hadi.....(Petitioner)

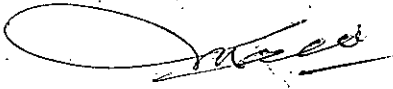
**VERSUS**

Chief Secretary etc.....(Respondents)

**AFFIDAVIT**

I, Fazli Hadi S/o Fazal Rehman, Resident of ASC Colony Block B Nowshera Cantt Tehsil & Distt: Nowshera, do hereby affirm and declare that the contents of the accompanying Appeal are true and correct and nothing has been concealed from this Hon'ble court. Further affirm that no such like bail application has earlier been filed before this Hon'ble court.

**DEPONENT**



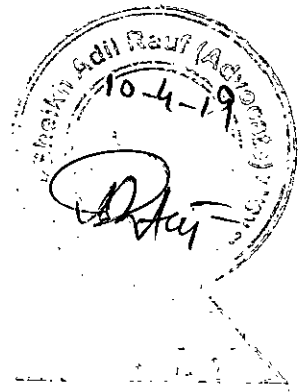
(Fazli Hadi)

CNIC # 17201-2209276-5



**IDENTIFIED BY:-**

(Qari Fateh ur Rehman)  
Advocate High Court





(5)

**OFFICE OF THE  
DISTRICT PUBLIC PROSECUTOR,  
NOWSHERA.**

No. 121 /DPP/NSR.

Dated: 26/2/2019.

To

The Worthy Secretary,  
Home & Tribal Affairs Department,  
Khyber Pakhtunkhwa, Peshawar.

Through: Proper Channel.

Subject:- **DEPARTMENTAL APPEAL FOR INCLUSION OF SERVICES OF THE APPLICANT RENDERED IN BPS-14, BPS-16 AND BPS-17/18, IN VIEW OF CHAPTER 13 PAGE 4 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS PAY REVISION RULES 1978 AND SUBSEQUENT REVISIONS FOR THE PURPOSE OF PROMOTION TO THE POST OF SENIOR PUBLIC PROSECUTOR BPS-19.**

It is submitted as under:-

1. That the appellant has been appointed as Prosecuting Sub Inspector (PSI) in Police Department and was adjusted in the Prosecution Services as Assistant Public Prosecutor and rendered services in BPS-14 w.e.f 08.12.1990 till 29.06.2007 and as such 1/4<sup>th</sup> of total service is to be included/counted for the purpose of onward promotion.
2. That since 30.06.2007, the appellant performed his duties in BPS-16 as Assistant Public Prosecutor till 15.10.2009. Therefore, for the purpose of seniority 1/2(half) of total service in BPS-16 is to be counted for the purpose of onward promotion.
3. That the appellant was posted against the post of Deputy Public Prosecutor on own pay scale vide Notification No.SO(Prosecution)/HD/1-2/2008/Vol-V dated: 15.10.2009.
4. That on 27.02.2012, the appellant was promoted on acting charge basis to the post of Deputy Public Prosecutor vide Notification No.SO(Prosecution)/HD/1-2/2011 dated: 27.02.2012 to the post of Deputy Public Prosecutor and the probation period of 01 years was completed on 27.02.2013.
5. That vide Notification No.SO(Prosecution)/HD/1-2/2017/Vol-I Dated: 29.05.2018 the appellant was promoted to the post of Deputy Public Prosecutor BPS-18 on regular basis after continuous service on the same post w.e.f 16.10.2009 till date.
6. That services rendered by the appellant since PSI/Assistant Public Prosecutor in BPS-14 w.e.f 08.12.1990 to 15.06.2007, 1/4<sup>th</sup> of the total period/service and rendered as Assistant Public Prosecutor since 16.06.2007 to 15.10.2009 in BPS-16 (1/2half of the total service/period) as well as services rendered against the post of Deputy Public Prosecutor since 16.10.2009 are to be included for the purpose of promotion to the post of Senior Public Prosecutor in view of chapter 13 Page4 of the Khyber Pakhtunkhwa Civil Servants pay Revision Rules and subsequent Revisions.




OFFICE OF THE  
**DISTRICT PUBLIC PROSECUTOR,**  
**NOWSHERA.**  
No \_\_\_\_\_ /DPP/NSR.  
Dated: / /2019.

7. That as per judgement of the August Supreme Court of Pakistan in case 2006 SCMR Page 1938 "Luqman Zarin and others" my services since 16.10.2009 to 27.02.2012 as Deputy Public Prosecutor on OPS against the vacant post and since 27.02.2012 to 28.05.2018 on acting charge basis are to be considered for all consequential benefits.
8. That in view of the above facts, the appellant is eligible for promotion to the post of senior public Prosecutor on seniority/fitness basis, having completed probation period on the post of Deputy Public Prosecutor in the Year 2012-13.
9. That several posts of Senior Public prosecutors are lying vacant in the Directorate of Prosecution Khyber Pakhtunkhwa since long.
10. That the applicant is going to be retired on 02.10.2020.
11. That the applicant has already submitted an application of the same nature vide No.468/DPP/NSR dated: 09.10.2018 which has not been decided so far.

It is humbly prayed that by accepting this departmental appeal and keeping in view the above facts, the appellant may be promoted to the post of Senior Public Prosecutor BPS-19 being Senior and eligible.

Appellant

  
**FAZLI HADI** 26/2/19  
Deputy Public Prosecutor (BPS-18)  
Nowshera.

**ENCLOSURE:-**

1. Initial Appointment Order as PSI BPS-14 Dated: 27.11.1990.
2. Post Upgradation Order of Assistant Public Prosecutor BPS-14 to BPS-16 Dated: 29.06.2007.
3. Posting order against the post of Deputy Public Prosecutor in OPS dated: 15.10.2009.
4. Promotion order to the post of Deputy Public Prosecutor BPS-17 on acting charge basis dated: 27.02.2012.
5. Promotion to the post of Deputy Public Prosecutor on regular basis dated: 29.05.2018.
6. Relevant pages of KPK Civil Servants Pay Revision Rules 1978 and subsequent Revisions.
7. Copy of Judgement 2006 SCMR Page 1938 (referred to above).

(8)

ORDER.

Mr. Fasal Hadi a/o Fazli Rehman r/o Command P.S. Shringal District Dir. is considered suitable for appointment as temporary PSI in the existing vacancy of this Range, in the revised Basic Pay Scale No. 14 with usual allowances authorised under rules subject to the strict verification of his character and antecedents.

His appointment in the Police Department is purely on temporary basis (likely to be come permanent) and liable to be terminated on one month Notice.

His original documents are also sent herewith. He is posted to Dir District. Necessary Gazette Notification to this effect may please be issued.

*Masud Ahmad*

( MASUD AHMAD )

Dy-Inspector-General of Police,  
Malakand Range, Saidu-Sharif, Dist.

No. 2249-51/B, Dated Saidu-Sharif, the 27/11 /1920.

Copy forwarded to the:-

1. Inspector-General of Police, P.W.D., Peshawar for favour of information.
2. Superintendent of Police, Dir, for immediate necessary action.
3. Fasal Hadi a/o Fazli Rehman r/o Command P.S. Shringal District Dir.

OB/EC

*Inform him through SHO/Shringal.  
Documents not received. Ask Range Office  
for the same.*

*Dy. No 5106  
3-12-20*

*OB 3272  
4.12.20*

*sl/BA*

8

**BETTER COPY**

**ORDER.**

Mr. Fazal Hadi s/o Fazil Rehman r/o Geondand PS Sharingal District Dir is considered suitable for appointment as temporary PSI in the existing vacancy of this Range, in the revised Basic Pay Scale No.14 with usual allowances authorized under rules subject to the verification of his character and attendants.

His appointment in the Police Department is purely on temporary basis (likely to be-come permanent) and liable to be terminated on one month Notice.

His original documents are also sent herewith. He is posted to Dir District; necessary Gazette Notification to this effect may please be issued.

*Attested by  
Rahman*

Mr. Fazal Hadi s/o Fazil Rehman r/o Geondand PS Sharingal District Dir is considered suitable for appointment as temporary PSI in the existing vacancy of this Range, in the revised Basic Pay Scale No.14 with usual allowances authorized under rules subject to the verification of his character and attendants.

(MASUD AHMAD)  
Dy: Inspector-General of Police,  
Malakand Range, Saidu-Sharif, Swat.

No.2249-51/E, Dated Saidu-Sharif, the 27/11/1990.

Copy forwarded to the:-

1. Inspector-General of Police, NWFP, Peshawar for favour of information.
2. Superintendent of Police, Dir, for immediate necessary action.
3. Fazal Hadi s/o Fazli Rehman r/o Geondand PS Sharingal District Dir.

(MASUD AHMAD)  
\*\*\*\*\* Dy: Inspector-General of Police  
Malakand Range, Saidu-Sharif, Swat.

No.2249-51/E, Dated Saidu-Sharif, the 27/11/1990.

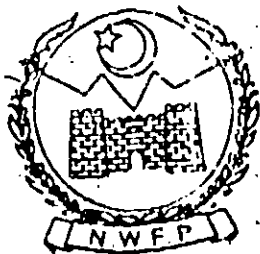
Copy forwarded to the:-

1. Inspector-General of Police, NWFP, Peshawar for favour of information.
2. Superintendent of Police, Dir, for immediate necessary action.
3. Fazal Hadi s/o Fazli Rehman r/o Geondand PS Sharingal District Dir.

FROM : DIRECTOR OF PROSECUTION PESH

FAX NO. : 8092 0919212559

Jul. 05 2007 01:16AM PT



**GOVERNMENT OF N.W.F.P.  
HOME & T.A. DEPARTMENT.**

No. \_\_\_\_\_

Dated Peshawar, the \_\_\_\_\_ 20

**NOTIFICATION.**

No.SO(Prosecution)/HD/1-10/2006/Vol-II In Pursuance of Finance Department's letter No. FD/SO(FR)7-8/2004(APP), dated 31/05/2007, the Competent Authority is pleased to up-grade Eighty-four (84) posts of Assistant Public Prosecutors of Directorate of Prosecution NWFP from BPS-14 to BPS-16 with immediate effect.

*Attested by  
Rahman*

The expenditure involved will be debitable to functional classification. 03-Public Order and Safety Affairs, 036-Administration of Public Order-0361 Public Administration-036101-Secretariat and will be met out from within the sanctioned budget grant 2006-2007.

SECRETARY TO GOVERNMENT OF NWFP  
HOME & TRIBAL AFFAIRS DEPARTMENT

Dated 29/06/2007

Endst: No. FD/SO(FR)7-8/2004(APP)

Copy forwarded to the Accountant General NWFP, Peshawar.

*M. Khan*  
(Naib Khan),  
Section Officer (FR)  
Finance Department

Endst: of even No. & Date

Copy forwarded to:

*Speach  
2/7*

- 1)-The Secretary to Government of NWFP, Establishment Department.
- 2)-The Secretary to Government of NWFP, Finance Department.
- 3)-The Director General, Prosecution NWFP, Peshawar.
- 4)-All District Public Prosecutors in NWFP.
- 5)-All District Accounts Officers in NWFP.
- 6)-The P.S. to Chief Minister NWFP.
- 7)-The P.S. to Chief Secretary, NWFP.
- 8)-The Section Officer (FR) Govt of NWFP, Finance Department, w/r to his letter No. FD/SO(FR)7-8/2004(APP) dated 31/05/2007.
- 9)-P.S. to Home Secretary NWFP.

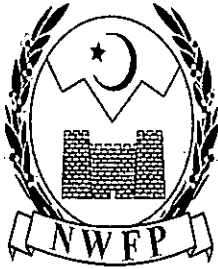
*E.A  
C. D. Khan  
AD*



*M. Muhammad Qasbi*  
Section Officer (Prosecution)

(10)

BETTER COPY



**GOVERNMENT OF N.W.F.P.  
HOME & T.As DEPARTMENT**

No. \_\_\_\_\_

Dated Peshawar, the \_\_\_\_\_ 20\_\_

NOTIFICATION.

No.SO(Prosecution)/HD/1-10/2006/Vol-II In pursuance of Finance Department's letter No. FD/SO(FR)/7-8/2004(APP) dated 31/05/2007, the Competent Authority is please to up-grade Eighty four (84) posts of Assistant Public Prosecutors of Directorate of Prosecution NWFP from BPS-14 to BPS-16 with immediate effect.

*Attested by  
Rahman*

2. The expenditure involved will be debatable to functional classification 03-Public Order and Safety Affairs, 036-Administration of Public Order-0361 Public Administration 036101 Secretariat and will be met out from within the sanctioned budget grant 2006-2007.

NOTIFICATION.

**SECRETARY TO GOVERNMENT OF NWFP  
HOME & TRIBAL AFFAIRS DEPARTMENT**

No. SO(Prosecution)/HD/1-10/2006/Vol-II In pursuance of Finance Department's letter No. FD/SO(FR)/7-8/2004(APP) dated 31/05/2007, the Competent Authority is please to up-grade Eighty four (84) posts of Assistant Public Prosecutors of Directorate of Prosecution NWFP from BPS-14 to BPS-16 with immediate effect.  
Copy forwarded to the Accountant General NWFP Peshawar.

2. The expenditure involved will be debatable to functional classification 03-Public Order and Safety Affairs, 036-Administration of Public Order-0361 Public Administration 036101 Secretariat and will be met out from within the sanctioned budget grant 2006-2007.  
Endst: of even.No. & Date:

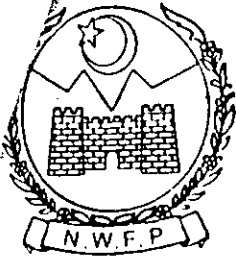
Copy forwarded to:

- 1) The Secretary to Government of NWFP, Establishment Department.
- 2) The Secretary to Government of NWFP, Finance Department.
- 3) The Director General Prosecution NWFP Peshawar.
- 4) All District Public Prosecutors in NWFP, 05/2007.
- 5) All District Accounts Officers in NWFP.
- 6) The P.S to Chief Secretary, NWFP Peshawar.
- 7) The Section Officer (FR) Government of NWFP, Finance Department w/r to his letter No.FD/SO(FR)77-8/2004(APP) dated; 31/05/2007.
- 8) P.S to Home Secretary NWFP.

*(Naib Khan)  
Section Officer (FR)  
Muhammad Qasim*

Section Officer (Prosecution)

- 1) The Secretary to Government of NWFP, Establishment Department.
- 2) The Secretary to Government of NWFP, Finance Department.



GOVERNMENT OF N.-W.F.P.  
HOME & T.As. DEPARTMENT.

No. \_\_\_\_\_

Dated Peshawar, the \_\_\_\_\_ 200

NOTIFICATION.

No.SO(Prosecution)/HD/1-2/2008/Vol-V. The Provincial Government of NWFP in relaxation of ban is pleased to order the following posting/transfer of Public Prosecutors, Deputy Public Prosecutor and Assistant Public Prosecutors in the public interest with immediate effect: -

S.#	Name	Designation	From	To	Remarks
1	Muhammad Zulfqar Ali.	Public Prosecutor (BPS -18)	Haripur	Peshawar	Against the vacant post
2	Mr.Farman Ullah.	District Public Prosecutor (BPS -18)	Kohat	Hangu.	Against the vacant post.
3	Mr.Nisar Khan	Deputy Public Prosecutor (BPS -17)	Mansehra	Swat	Against the vacant post.
4	Mr.Zulfqar Khan	Assistant Public Prosecutor (BPS-16)	Kohat	Peshawar	Against the vacant post of Deputy Public Prosecutor (BPS-17) in his own pay scale.
5	Mr.Fazl-e-Hadi.	Assistant Public Prosecutor (BPS-16)	Swat	Nowshera	Against the vacant post of Deputy Public Prosecutor (BPS-17) in his own pay scale.

Additional Chief Secretary NWFP,  
Home & Tribal Affairs Department.

Endst:No.SO(Prosecution)/HD/1-2/08./Vol-V.

Dated 15/10/2009.

Copy forwarded to: -

- 1)-The Accountant General, NWFP, Peshawar.
- 2)-The Director General, Prosecution, NWFP, Peshawar, w/r to his letter No.DP /E&A1(02)/09/5916,dated 02/10/2009,with the request to nominate a suitable Officer for posting against the vacant post of District Public Prosecutor,Kohat.
- 3)-The District Public Prosecutors Peshawar, Kohat, Mansehra, Swat Haripur and Nowshera.
- 4)-The District Accounts Officers Kohat, Mansehra, Swat, Haripur and Nowshera.
- 5)-Officers concerned.
- 6)-P.S to Addl: Chief Secretary Home Department.

*Usman Zaman*  
(Usman Zaman)  
Section Officer (Prosecution)



(12)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & T.A.S DEPARTMENT.

No. S.O(Prosecution)HD/1-10-2011

Dated Peshawar, the 27-2-12 20

DT: 27-2-12

NOTIFICATION

No.SO(Prosecution)HD/1-10/2011: The Competent Authority on the recommendation of the Departmental Promotion Committee (D.P.C) is pleased to promote the following Assistant Public Prosecutors (BS-16) to the post of Deputy Public Prosecutor (BS-17) from S.No. 1 to 13 on regular basis and from S.No. 14 to 24 on acting charge basis, with immediate effect in the public interest.

*Attested by  
Rahman*

*S.No. 1 to S.No.13  
regular Basis*

*S.No.14 to S.No.24  
Acting Basis*

S.No.	Name of Officer
1.	Mr. Rab Nawaz
2.	Mr. Sher Zaman
3.	Mr. Muhammad Qaiser
4.	Mr. Karamatullah
5.	Mr. Abdul Salam
6.	Mr. Ibrahim Khan
7.	Mr. Pervez Khan
8.	Mr. Muhammad Zahoor
9.	Mr. Qazi Aftab Ahmad
10.	Mr. Muhammad Saleem
11.	Mr. Imran Shah
12.	Mr. Javed Hussain Mughal
13.	Mr. Abdul Hamid
14.	Mr. Zulfiqar Khan
15.	Mr. Pervez Ilahi
16.	Mr. Israr Ali
17.	Mr. Aais Ahmad Jan
18.	Mr. Altaf Hussain
19.	Mr. Fazale Hadi
20.	Mr. Murtaza Shah
21.	Mr. Sheikh Zahoor Ahmad
22.	Mr. Haf Hussain Akhtar
23.	Mr. Cangaiz Khan
24.	Mr. Muhammad Nisar

*Seen  
Circulated among  
APPS.  
y/jan  
02/3/12*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & T.A.S DEPARTMENT.

SI - G - FB

No. \_\_\_\_\_  
Dated Peshawar the 27-08-2012

The above officers shall be on probation for a period of one year in term of section -6 (2) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15 (1) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

(MUHAMMAD AZAM KHAN)  
Secretary to Govt: of Khyber Pakhtunkhwa  
Home & Tribal Affairs Department

Attested by  
Muhammad

Endst: of Even No. & Date:-

Copy forwarded for information to:-

1. The Chief Secretary, Khyber Pakhtunkhwa.
2. The Accountant General Khyber Pakhtunkhwa.
3. The Director General Prosecution, Khyber Pakhtunkhwa.
4. All District Public Prosecutors in Khyber Pakhtunkhwa.
5. All District Account Officers in Khyber Pakhtunkhwa.
6. P.S to Secretary to Govt: of Khyber Pakhtunkhwa, Home & Tribal Affairs Department.
7. Officers concerned.

(MUHAMMAD REHMAN)  
Section Officer (Prosecution)

113

**TO BE SUBSTITUTED FOR THE SAME NUMBER AND DATE**

**GOVERNMENT OF KHYBER PAKHTUNKHWA**

**HOME & TRIBAL AFFAIRS DEPARTMENT**

Peshawar dated the 29<sup>th</sup> May, 2018.



**NOTIFICATION**

**NO.SO (Prosecution) HD/1-10/2017/Vol-I:** On the recommendations of the Provincial Selection Board; the Government of Khyber Pakhtunkhwa is pleased to promote the following Assistant Public Prosecutors, BS-17 to the post of Deputy Public Prosecutors, BS-18, on regular basis with immediate effect: -

S.#	Name of the Officers
1.	Mr. Altaf Hussain
2.	Mr. Fazale Hadi
3.	Mr. Iltaf Hussain Akhtar
4.	Mr. Muhammad Afzal
5.	Mr. Javed Iqbal Anwar
6.	Mr. Muhammad Shakeel
7.	Mr. Attaullah
8.	Mr. Muhammad Nadeem
9.	Mr. Hayatullah
10.	Mr. Sher Bahadar
11.	Mr. Ziaullah Wazir
12.	Mr. Khalid Khan
13.	Mr. Tasawar Hussain
14.	Mr. Amanullah
15.	Mr. Muzafar Ahmad
16.	Mr. Javed-ur Rehman
17.	Mr. Syed Falak Sair
18.	Mr. Manzoor Alam
19.	Mr. Umar Niaz
20.	Mr. Rafiullah
21.	Mr. Muhammad Tufail
22.	Mr. Ibadur Rehman
23.	Mr. Asim Mehmood

*Attested by  
Nahman*

2. The officers on promotion shall remain on probation for a period of one year extendable for another year, in terms of Section 6(2) of Khyber Pakhtunkhwa, Civil Servants Act, 1973, read with Rule 15(1) of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

**SECRETARY  
HOME DEPARTMENT**

**Endst: No. even, dated 11<sup>th</sup> December, 2018.**

**Copy forwarded to: -**

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
2. The PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
3. The Accountant General Khyber Pakhtunkhwa Peshawar.
4. The Advocate General Khyber Pakhtunkhwa, Peshawar.
5. The Director General Prosecution Khyber Pakhtunkhwa.
6. All District Public Prosecutors in Khyber Pakhtunkhwa.
7. All District Accounts Officers in Khyber Pakhtunkhwa.
8. P.S to Secretary Home & Tribal Affairs Department, Peshawar.
9. PS to Special Secretary, Home & Tribal Affairs Department. Peshawar.

*5/05/18*  
*[Signature]*  
**Section Officer (Prosecution)**

2006 S C M R 1938

[Supreme Court of Pakistan]

Present: Khalil-ur-Rehman Ramday and Raja Fayyaz Ahmed, JJ

LUQMAN ZAREEN and others---Petitioners

Versus

SECRETARY EDUCATION, N.-W.F.P. and others---Respondents

C.Ps. Nos.326-P to 342-P, 485-P, 486-P; 513-P to 519-P, 586-P and 622-P of 2005, decided on 21st June, 2006.

(On appeal from the judgment/order, dated 14-5-2005 of the N.-W.F.P. Service Tribunal, Peshawar, passed in Service Appeals Nos.187 and 188 of 2004, 1019, 1020, 1021, 1022, 1023, 1025, 1026, 1122, 1178, 1191, 1192, 1193, 1194, 1195, 1196, 1024, 1151, 1152, 1153, 1154, 1158, 1159, 1160, 1161, 1157 and 997 of 2003, respectively).

(a) North-West Frontier Province Civil Servants Act (XVIII of 1973)---

---S. 8---Promotion--- Principle--- Acting charge--- Departmental Promotion Committee issued delayed notification---Effect---Where a post was available against which a civil servant could be promoted; where such civil servant was qualified to be promoted to such a higher post; where he was put on such higher post on officiating or acting charge basis only because requisite exercise of allowing regular promotion to such post was being delayed by competent authority and where he was subsequently found fit for such promotion and was so promoted on regular basis, then the civil servant was entitled not only to the salary attaching to such post but also to all consequential benefits from that very date from which he had put on the said post on officiating or acting charge basis.

(b) North-West Frontier Province Civil Servants Act (XVIII of 1973)---

---S. 8---Promotion---Acting charge---Date of promotion---Determination---Civil servants were promoted on 31-8-2000, on acting charge basis but Departmental Promotion Committee issued their notification of promotion on 27-5-2003---Grievance of civil servants was that their promotion was not considered from the date when they were promoted on acting charge basis---Validity---Civil servant who was asked to hold a higher post to which he was subsequently promoted on regular basis, was entitled to the salary etc. attaching to such post for the period that he held the same---Such civil servant was also entitled to any other benefits which might be associated with such post---If a vacancy existed in the higher cadre to which a civil servant was qualified to be promoted on regular basis but was not so promoted without any fault on his part and was instead put on such post on officiating basis, then on his regular promotion to such post, the civil servant would be deemed to have been so promoted to the same from the date from which he was allowed to hold the higher post, unless justifiable reasons existed to hold otherwise---Supreme Court converted petition for leave to appeal into appeal and set aside the judgment passed by Service Tribunal---Supreme Court declared the civil servants to be deemed to be promoted from 31-8-2000 and not from 27-5-2003---Appeal was allowed.

service; had been promoted to the post of Superintendent of Jail after Muhammad Afzal had been put on the said post in his own pay and scale but before his regular promotion to the said post on 1-9-1994 and that granting promotion to the said Muhammad Afzal with effect from 21-12-1989 would operate prejudicially to his seniority and interests vis-a-vis the said Muhammad Afzal. After hearing all the sides, this Court sanctified the promotion of Muhammad Afzal with effect from the date when he had been actually put on the said higher post i.e. with effect from 21-12-1989 subject only to the proviso that the same would not adversely affect the rights of the other Superintendents of Jail who were senior to the said Muhammad Afzal.

15. A bare perusal of these judgments would thus, show that this Court had always accepted the principle that a person who was asked to hold a higher post to which he was subsequently promoted on regular basis, was entitled to the salary etc. attaching to such a post for the period that he held the same; that he would also be entitled to any other benefits which may be associated with the said post and further that if a vacancy existed in a higher cadre to which a civil servant was qualified to be promoted on regular basis but was not so promoted without any fault on his part and was instead put on the said post on officiating basis then on his regular promotion to the said post, he would be deemed to have been so promoted to the same from the date from which he was allowed to hold the said higher post unless justifiable reasons existed to hold otherwise.

16. The appeals filed by the petitioners before the learned Service Tribunal could not have been dismissed on the ground of limitation. Firstly, because it was the subsequent notification dated 27-5-2003 which had ordered their regular promotion not from the date that they had been promoted to the posts in question on acting charge basis but from the date of the said notification, which had caused grief to them. Therefore, limitation would start running against them not from 31-8-2000 but from 27-5-2003. And secondly, because on similar question of limitation, this Court had thus, held in Sarwar Ali Khan's case (supra)

"... it can be said that presumption favourable to the civil servant (appellant) would be that it was temporary arrangement and would not last long but it lasted for three years. Filing representation was also proper remedy and in such circumstances, it would not be fair to knock down service appeal as time-barred on the ground that first notification was not challenged."

17. This brings us to the question whether the petitioners could have been denied relief by the learned Tribunal on the ground that allowing relief in question to them could have operated to the prejudice of some persons who had been directly recruited to the posts of Subject Specialists between 31-8-2000 and 27-5-2003 and who had not been impleaded as respondents in the said appeals. Suffice it to say that the appeals filed by the petitioners before the Service Tribunal did not seek seniority over the said directly recruited persons and what they were asking for was the vindication of their right to regular promotion from the date in question and if the petitioners were found entitled to the same then they could not be deprived of it only because it could have caused some prejudice to some others nor could the said others be heard to deny the said benefit deserved by the petitioners. Therefore, we find that non impleading of the said direct recruits to the appeals filed by the present petitioners in the learned Tribunal could also be no ground to deny them a right which had lawfully accrued to them.

18. Having thus, examined all aspects of the matter and for the above-discussed reasons, all these petitions are converted into appeals which are allowed as a result

Sarwar Ali Khan's case PLD 1994 SC 233 and Chaudhry Mehmood Akbar's case 2003 SCMR 13 rel.

(c) North-West Frontier Province Service Tribunals Act (I of 1974)---

---S. 4---North-West Frontier Province Civil Servants Act (XVIII of 1973), S.8---  
Appeal---Maintainability---Necessary parties---Non-impleading of direct appointees--  
-Civil servants were promoted on 31-8-2000, on acting charge basis but Departmental  
Promotion Committee issued their notification of promotion on 27-5-2003---During  
promotion on acting charge basis and issuance of notification, department directly  
recruited few civil servants---Grievance of said civil servants was that their promotion  
was not considered from the date when they were promoted on acting charge basis---  
Service Tribunal dismissed appeal on the ground that the direct appointees were not  
made party to the appeal---Validity---Appeals filed by civil servants before Service  
Tribunal did not seek seniority over directly recruited persons and what they were  
asking for was vindication of their right to regular promotion from the date in  
question---If civil servants were found entitled to the same then they could not be  
deprived of it only because it could have caused some prejudice to some others nor  
could those others be heard to deny such benefit deserved by the civil servants---Non-  
impleading" of the direct appointees to the appeals filed by civil servant in Service  
Tribunal could be no ground to deny them a right which had lawfully accrued to  
them---Appeal was allowed.

Javed A. Khan, Advocate Supreme Court with Mir Adam Khan, Advocate-on-Record  
for petitioners (in all petitions).

M. Saeed Khan, Additional Advocate-General, N.-W.F.P. with Haji Ahmed Khan,  
Additional Secretary (S&L) and Fazli Manan, Director (S&L) Education  
Department, Peshawar for Respondents.

Date of hearing: 21st Just, 2006.

**JUDGMENT**

**KHALIL-UR-REHMAN RAMDAY, J.**---All these petitions, twenty-eight in  
number, involve identical questions of law and facts; arise out of the same  
consolidated judgment of the learned N.-W.F.P. Service Tribunal and are, therefore,  
being disposed of together through this single judgment.

2. The petitioners in all these cases were serving the respondent-Government as  
S.E.Ts. in different schools of the Province. Through a notification dated 31-8-2000,  
they were "ADJUSTED" against the higher posts of Subject-Specialists in the  
following terms:

"The following SETs holding M.A./M.Sc. Degrees in the relevant subject for  
the post of Subject Specialists on acting charge basis in the schools noted  
against each on seniority basis with immediate effect subject to the terms and  
conditions in vogue or ones to be framed in future."

3. After the petitioners had held the said higher posts of Subject Specialists and  
Headmasters for about three years, a further notification was issued on 27-5-2003  
which read as under:

"On the recommendation of the Departmental Promotion Committee, the Competent Authority has been pleased to promote the following S.E.Ts. (BPS-16) (I/C S.S.) to the rank of Subject Specialists (BPS-17) on regular basis with immediate effect and adjusted in the schools as noted against their names."

4. The petitioners felt aggrieved of their promotion to the said post from 27-5-2003 and not from the date when they had been actually appointed to the said posts though on acting charge basis i.e. from 31-8-2000. They sought redress of their said grievance from the learned Service Tribunal but failed.
5. Hence these petitions.
6. It has not been denied even before us that clear vacancies of Subject Specialists existed on 31-8-2000. It has also not been denied that all the petitioners possessed the requisite qualifications for being regularly promoted to the said posts on the said date and no impediment existed in their way to such a promotion. The reason offered for not so doing was that since a large number of SETs were to be promoted, therefore, it took the Departmental Promotion Committee some time i.e. about three years to do the needful. It was, however, submitted that no financial loss had accrued to the petitioners because during these three years when they were holding the said higher posts, they had been paid salaries etc. attached to the same.
7. The learned Tribunal non-suited the petitioners essentially on the ground that during the period in question when they were holding the higher posts on acting charge basis, they were entitled only to the salaries of the said posts and nothing more and that they were not possessed of any right to claim regular promotion from 31-8-2000. A mention had also been made by the learned Tribunal that during this period some twenty-seven persons had got directly recruited as Subject Specialists who had not been arrayed as parties to the appeals filed by the petitioners before the said learned Tribunal; that ante-dating the promotion of the petitioners to the said posts would adversely affect the seniority of the said direct appointees and since they had not been made parties to the said appeals, therefore, the sought relief could not be granted to them. From the impugned judgment of the learned Service Tribunal, an impression is also gathered that while refusing the said relief to the petitioners, the said learned Tribunal had also been influenced by the fact that they had not re-coursed to the available remedies in the year 2000 when they had been promoted to the posts in question on acting charge basis only and not on regular basis.
8. We have heard the learned counsel for the parties and have also perused the record in the light of the submissions made before us.
9. It is then a position admitted on all sides that nothing existed in the way of the petitioners on 31-8-2000 which could have disentitled them to regular promotion to the posts in question and that it was only the usual apathy, negligence and bureaucratic red-tapsim which had deprived the petitioners of the fruits that they deserved. The petitioners could not be permitted to be punished for the faults and inaction of others. We are of the view that where a post was available against which a civil servant could be promoted; where such a civil servant was qualified to be promoted to such a higher post; where he was put on the said higher post on officiating or acting charge. basis only because the requisite exercise of allowing the regular promotion to the said post was being delayed by the competent authority and where he was subsequently, found fit for the said promotion and was so promoted on

regular basis then he was entitled not only to the salary attaching to the said posts but also to all consequential benefits from the very date from which he had been put on the said post on officiating or acting charge basis and we hold accordingly.

10. The learned Tribunal had brushed aside some precedent cases cited before it including some cases of this Court by declaring that the same were distinguishable. We have gone through the said judgments delivered by this Court and find that the learned Tribunal had failed to read the said judgments properly and to appreciate the ratio of the same in its correct prospective.

11. One such judgment to which a reference had been made in detail in the impugned judgment was Sarwar Ali Khan's case reported as PLD 1994 SC 233. This was a case where a Deputy Registrar of the Sindh Labour Appellate Tribunal had been appointed to the post of the Registrar of the same Tribunal on 5-7-1988 with immediate effect and till further orders but in his own pay and scale. It was almost three years later that he was regularly promoted to the said post on the recommendation of the Departmental Promotion Committee. Since there was no prospect of his further promotion beyond the post of Registrar, therefore, he had claimed only the salary of the post of Registrar which he had held on officiating basis for about three years and had prayed for nothing more. This claim was denied to him which finally led him to this Court. And this is what was held by this Court in the said facts and circumstances:

".... This cannot be stretched to cover the case in hand, where the incumbent has worked against that post on his own pay and status for three years, particularly when there was no legal impediment in his way to be promoted at that time on regular basis when he was inducted on 5-7-1988. In the instant case, since the appellant was eligible and qualified for promotion to B-18, there appears no justifiable reason to deprive him of the salary and others benefits of that post for a period of three years, which he would have received, had he been promoted on regular basis. The appellant had discharged full duties and responsibilities of the higher post and in the absence of some plausible reason, he cannot be deprived of the salary and other benefits connected with that post." Underlining is ours).

12. Dealing with this judgment, the learned Tribunal had failed to appreciate the principle laid therein by this Court by omitting to give the requisite weight to the principle enunciated and the words "other benefits" emphasized by this Court through the said judgment.

13. Another judgment of this Court placed before the learned Tribunal for its guidance was the one delivered in the case of Chaudhry Mehmood Akbar reported as 2003 SCMR 13.

14. This was a case where Muhammad Afzal, the respondent in that case, while serving as Deputy Superintendent of Jail on 21-12-1989, was transferred and posted as Superintendent of Jail in his own pay and scale and it was almost five years thereafter i.e. on 1-9-1994 that he was regularly promoted to the said post of Superintendent. He reached the Service Tribunal claiming regular promotion from the date when he had been appointed to the said post of Superintendent i.e. from 21-12-1989 instead of the date of his regular promotion to the same i.e. on 1-9-1994. The learned District Attorney who represented the Government before the learned Tribunal did not object to the grant of the said relief and the same was accordingly allowed to him. One Muhammad Akbar questioned the said judgment of the learned Tribunal before this Court submitting that he was senior to Muhammad Afzal in

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CHAPTER - 13

2006 SC MR 1938

(Pages 1 to 17)

**N.-W.F.P.  
Civil Servants  
Pay Revision  
Rules, 1978 and  
Subsequent Revisions.**

Source:

- (i) Pay Revision Rules, 1978, revised in 1983, 1987, 1991 and 2001.

3) Admissibility of increments on promotion to a post in Basic Pay Scale 18 and above. If a civil servant is appointed by promotion to a post in Basic Pay Scale 18 or above before he completes the length of service prescribed for the higher post, he shall be entitled to draw the pay:

- i) at the minimum of the Basic Pay Scale of the higher post till such time as he completes the prescribed length of service and the next increment shall accrue to him on the first day of December, following the completion of the prescribed length of service or following the completion of at least six months service in the scale, whichever is later.
- ii) admissible to him from time to time in the lower post held by him immediately before his promotion to the higher post, if that be more beneficial to him till such time as he completes the prescribed length of service when his pay shall be fixed in the manner prescribed in rule 10 and the next increment shall accrue to him on 1st day of December, following the completion of at least 6 months service in the relevant Basic Pay Scale.

Rule 11

Prescribed length of service for the purpose of pay and increments.  
(See S.No.3 and 4)

- a) The minimum length of service (in BPS-17 and above) prescribed for the purpose of drawal of pay and increments on promotion to posts carrying BPS-18 and above shall be as under:

<u>BPS of the Post</u>	<u>Length of Service</u>
BPS-18	5 years
BPS-19	12 years
BPS-20	17 years
BPS-21	22 years
BPS-22	22 years.

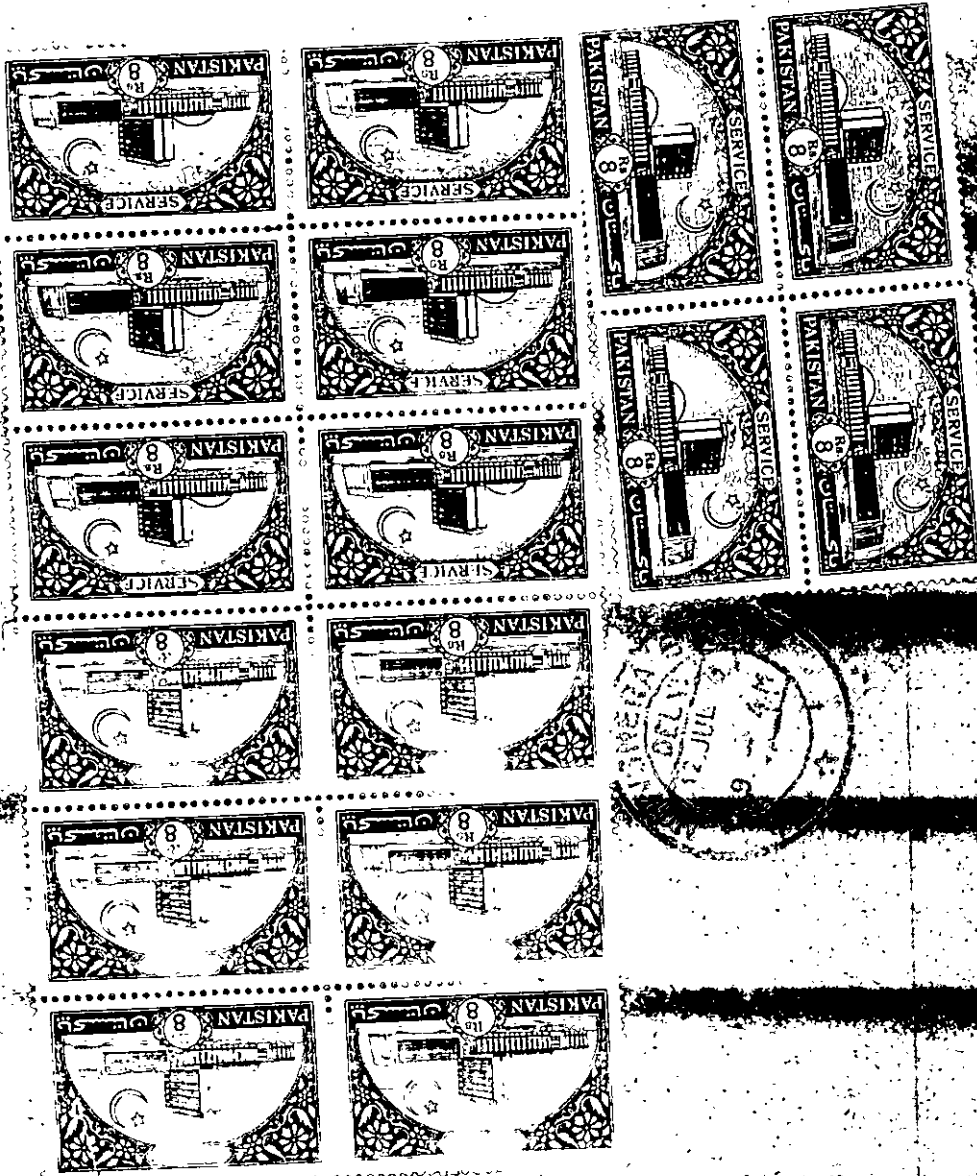
In calculating the service rendered in BPS-17 and above, half of the service rendered in BPS-16 and 1/4th of service rendered in scale below-16, if any, shall be added for the purpose of computing total length of service. These orders shall take immediate effect.

No. FD(PRC)1-1/86-VI(B), dated 5.6.1986.

- b) Service rendered in the Federal Government or any other Provincial Government shall also be taken into account for the purposes of, and in the manner specified in Clause(a).

Rule 11 of Civil Services Pay Revision Rules, 1978.

Nowshera post office stamp  
date of receiving 12 Jul 2019.



O.P.S.S.

Regd.

TO,

Hafiz Fateh-ur-Rehman  
Advocate High Court  
at Newsheera  
City

has  
✓

Appellant  
Farh. Hadi  
Deputy Public  
Prosecutor  
Newsheera

Despatcher  
Hyder Pakir  
Saini

