

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

**Service Appeal No.1044/2023**

Zabta Khan \_\_\_\_\_ Petitioner

**Versus**

Government of Khyber Pakhtunkhwa through Secretary Information and others \_\_\_\_\_  
Respondents

**INDEX**

<b><u>S.No</u></b>	<b><u>Description of Documents</u></b>	<b><u>Annexure</u></b>	<b><u>Page No.</u></b>
1	Para-wise Comments	A	1-09
2	Affidavit	B	10
3	Authority Letter	C	11



**DEPONENT**

ASSISTANT DIRECTOR INFORMATION  
Directorate General Information & PRs  
Khyber Pakhtunkhwa Peshawar

21-02-2024

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

**Re: Service Appeal No. 1044/2023**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 11258

Dated 21/2/24

**1. Zabita Khan EX Director Information (Personal) (BPS-19)**

Directorate General Information & PRs Department

---- APPELLANT

...VERSUS...

1. Government of Khyber Pakhtunkhwa through Chief Secretary, at Civil Secretariat, Peshawar.
2. Secretary Information and Public Relations Department Government of Khyber Pakhtunkhwa, at Warsak Road Peshawar.
3. Secretary Establishment Department at Civil Secretariat, Peshawar.
4. Director General, Directorate General of Information & PRs, Khyber Pakhtunkhwa.
5. Provincial Selection Board through its Secretary.

----  
**RESPONDENTS**

**WRITTEN REPLY ON BEHALF OF RESPONDENTS NO. 2 & 4**

**PRELIMINARY OBJECTIONS:**

1. That the appellant has no cause of action/locus standi to file the instant appeal in the Tribunal.
2. That no legal right of the appellant been infringed, therefore, the appeal is neither competent nor maintainable.
3. That the appellant has not come to the Tribunal with clean hands.

**RESPECTFULLY SHEWETH:**

**REPLY ON FACTS:**

1. Admitted. The appellant has served in Information and Public Relation Department as a Deputy Director (Information) in BPS – 19 (Personal).
2. Para-2 pertains to the employment history of the applicant, hence no comments.
3. Para-3 also pertains to the appellant's employment history; however, the officer has served in this department for 30 years and not 40 years. The appellant himself mentioned in Para-2 that he joined this department on 29.5.1993 and stands retired on 09.02.2023.
4. Not admitted. According to Seniority List, at the time of retirement of the appellant, two other officers namely Mr. Salim Khan and Mr. Mubashir Raheem were senior to him, so the claim of the appellant being the senior most is not correct.
5. Admitted to the extent that this Department did request Establishment Department vide letter No. SO (INF) 4-118/2022/Promotion/Vol-III dated 30.01.2023 that the Appellant may be considered for promotion on circulation basis in case of delaying

*Attended*

*ASSTANT DIRECTOR INFORMATION*  
Directorate General Information & PRs  
Khyber Pakhtunkhwa Peshawar

of PSB Meeting as the Appellant was going to be retired from Service on 08.02.2023 (Annex-I).

- 6. Pertains to Establishment Department. As for as convening of the PSB meeting is concerned, it is the sole prerogative of the Establishment Department. Establishment Department did mention in letter No.SO (PSB) ED/1-11/2022 P-30 dated 16.03.2023 that the promotion case of the appellant was processed by circulation, however, Election Commission of Pakistan had issued directions for compliance of Section-230 of Election Act, 2017 by which Care taker Government shall not make promotion or major appointments of public officials. Therefore, it is not clear whether the appellant case was signed and approved from all concerned authorities or not (Annex-II).
- 7. Admitted. The Election Commission of Pakistan vide its notification No. F.No.2(1)/2023-Cord. Dated Islamabad the 22<sup>nd</sup> January, 2023 barred the caretaker Provincial Government from posting, transfer and promotion of officers (Annex-III).
- 8. Admitted. The ECP acceded to the request of Establishment Department regarding posting/transfer and promotion on 11-03-2023 but, unfortunately, by that time, the appellant was no more in service and had retired a month ago on 08-02-2023.
- 9. Para-9 pertains to the Establishment Department. However, the relaxation granted was general in nature and not to the appellant as such and by the time the appellant had already got retired from Service.
- 10. Admitted to the extent that the officer was no more in service and also the Establishment Department had asked to remove the name of the appellant from the list, therefore, his name was removed from the list.
- 11. This department has no record regarding the appeal.
- 12. No Comments.

Attended  
 ASSISTANT DIRECTOR INFORMATION  
 Directorate General Information & PRS  
 Mhyber Pakhtunkhwa Peshawar

**REPLY ON GROUNDS**

- A. Para one is incorrect and misleading as none of his contemporary has been promoted from the date of personal upgradation.
- B. The case of the appellant for promotion was processed as per prevailing Law & Rules.
- C. No Comments.
- D. As stated above in Paras-6, 7, 8 & 9 of the Facts.
- E. The appellant has not been deprived of his right and as such there is no violation on the part of Respondents. Paras- 6, 7, 8 and 9 of the Facts are referred.
- F. No Comments

It is, therefore, most humbly prayed before this Tribunal to dismiss the instant appeal, in favor of the Government.

**RESPONDENTS**

1. Secretary Information & PRs,  
Government of Khyber Pakhtunkhwa.
2. Director General,  
Directorate General Information & PRs  
Khyber Pakhtunkhwa

~~Secretary~~  
Information & PRs Department  
Government of Khyber Pakhtunkhwa

13/11/2014

Through Additional Advocate General,  
Khyber Pakhtunkhwa

*A. Akhtar*  
*A. Akhtar*  
ASSISTANT DIRECTOR INFORMATION  
Directorate General Information & PRs  
Khyber Pakhtunkhwa Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA  
INFORMATION, PUBLIC RELATIONS  
DEPARTMENT,

No. SO (INF)4-118/2022/Promotion/Vol-III  
Dated Peshawar the 30<sup>th</sup> January, 2023

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Establishment Department

Attention: Section Officer (PSB)

Subject: PROMOTION OF OFFICERS OF INFORMATION DEPARTMENT FROM  
BS-18 TO BS.19

Dear Sir,

I am directed to refer to Establishment Department letter No: SO(PSB)  
:D/1-11/2022/ P-30 Dated 24/01/2023 on the subject noted above and to state that the  
equisite documents are attached for further necessary action at your end.

I am further directed to state that Mr. Zabita Khan, Deputy Director  
Information (BS-19 Personal) is although in the promotion zone, however, he is going to  
be retired from service on 08-02-2023. It is therefore, requested that in case of delaying  
PSB meeting the officer at S# 5 i.e Mr. Zabita Khan, Deputy Director Information (BS-  
19 Personal) may be considered for promotion on circulation basis, please.

*Attended*  
*W. Q. Khan*  
ASSISTANT DIRECTOR INFORMATION  
Directorate General Information & PRs  
Khyber Pakhtunkhwa Peshawar

Yours faithfully  
*W. Q. Khan*  
Section Officer (Estt:)

Copy of the above is forwarded to:-

- 1) PS to Secretary Information, PRs Department.
- 2) PS to Director General Information & PRs Khyber Pakhtunkhwa.
- 3) Master file.

*W. Q. Khan*  
Section Officer (Estt:)

**ELECTION COMMISSION OF PAKISTAN**  
**NOTIFICATION**

Islamabad the 22<sup>nd</sup> January, 2023

**F.No.2(1)/2023-Cord.- WHEREAS,** the Provincial Assemblies of Punjab and Khyber Pakhtunhwa under Article 112 of the Constitution of the Islamic Republic of Pakistan stand dissolved on 14<sup>th</sup> and 18<sup>th</sup> January, 2023 respectively.

**AND WHEREAS,** the Election Commission of Pakistan is mandated with the constitutional duty to organize and conduct elections in terms of Article 218(3) of the Constitution and to make such arrangements as are necessary to ensure that the elections are conducted honestly, justly, fairly and in accordance with the law and that corrupt practices are guarded against;

**AND WHEREAS,** it has become imperative that the Election Commission shall take all necessary steps under the Constitution and prevalent law for smooth conduct of General Elections to the Provincial Assemblies of Punjab and Khyber Pakhtunhwa.

**NOW THEREFORE,** in exercise of the powers conferred upon it under Articles 218(3), 220 of the Constitution of the Islamic Republic of Pakistan, Sections 4, 5, 8(c) read with Section 230 of the Elections Act, 2017 and as supported by the Workers' Party case through Akhtar Hussain Advocate, General Secretary and 6 others Versus Federal of Pakistan and 2 others reported in PLD 2012 SC 681, and all the other powers enabling it in that behalf, the Election Commission of Pakistan, to ensure transparent election and to provide a level playing field for all contesting candidates and political parties, hereby directs the Caretaker Governments of Punjab and Khyber Pakhtunhwa:-

- (a) To assist the Election Commission to hold elections in accordance with law as provided under section 230(1)(b) of the Elections Act, 2017.  
To ensure the compliance of all the notifications, directives and the provisions as laid down in Section 230 of the Act *ibid*.
- (b) Not to post or transfer any public official after the issuance of this notification within and to / from Punjab & Khyber Pakhtunhwa without prior approval in writing of the Election Commission as laid down in Clause 2(f) of Section 230 of the Elections Act, 2017.
- (c) Ensure that all kinds of recruitments in any Ministry, Division, Department or Institution under the Provincial Governments and Local Governments of Punjab and Khyber Pakhtunhwa are banned with immediate effect, except recruitments by the Provincial Public Service Commissions and those government organizations where test / interviews have already been conducted before this day.
- (d) Not to announce / execute any kind of Development Schemes in Punjab and Khyber Pakhtunhwa Provinces except those which are ongoing and approved before the issuance of this notification. Moreover, the Provincial Governments and Local Governments of Punjab and Khyber Pakhtunhwa shall not issue tenders of such schemes till culmination of General Elections of both Assemblies.
- (e)

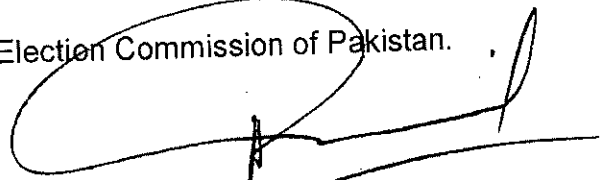
*Handwritten signature*  
**ASSISTANT DIRECTOR INFORMATION**  
Directorate General Information & PRs  
Khyber Pakhtunhwa Peshawar

Contd...Page-2



- (f) All development funds relating to Local Government institutions of Punjab and Khyber Pakhtunkhwa and Cantonment Boards falling in the jurisdiction of Punjab and Khyber Pakhtunkhwa shall stand frozen with immediate effect till announcement of results of the said General Elections.
- (g) To ensure immediate termination of services of all heads of the institutions appointed on political basis and to send their lists to the Commission forthwith.
- (h) To ensure vacation of the government residential facilities from Ex-Chief Ministers and their advisors, Ex-Provincial Ministers and Ex-Members of the Provincial Assemblies of Punjab and Khyber Pakhtunkhwa, besides ensuring withdrawal of official vehicles from them. Furthermore, the dignitaries shall be provided security / protocol as per their entitlement and any extra deployment of security / protocol be withdrawn from them forthwith.
- (i) The Caretaker Governments shall perform their functions and attend to day-to-day matters which are necessary to run the affairs of the Provinces in accordance with law.
- (j) The Chief Minister or a Minister or any other member of Caretaker Governments shall, within three days from the date of assumption of office, submit to the Commission, a statement of assets and liabilities including assets and liabilities of his spouse and dependent children as on the preceding 30<sup>th</sup> day of June on Form B.

This issues with the approval of Election Commission of Pakistan.



(Omar Hamid Khan)

Secretary

Election Commission of Pakistan

Copy forwarded for information to the:

- (1) Secretary to the President, Aiwan-e-Sadr, Islamabad.
- (2) Secretary to the Prime Minister, Prime Minister's Secretariat, Islamabad.
- (3) Secretary, Ministry of Parliamentary Affairs, Govt. of Pakistan, Islamabad.
- (4) Secretary, Ministry of Interior, Government of Pakistan, Islamabad.
- (5) Secretary, Ministry of Planning, Development and Reforms, Government of Pakistan, Islamabad. (for implementation and Circulation to all relevant Departments)
- (6) Secretary, Senate Secretariat, Islamabad.
- (7) Secretary, National Assembly of Pakistan, Islamabad.
- (8) Secretary, Ministry of Defence, Government of Pakistan, Rawalpindi.
- (9) Secretary, Establishment Division, Government of Pakistan, Islamabad. (for implementation and Circulation to all concerned)
- (10) Principal Secretary to the Governor, Punjab, Lahore.
- (11) Principal Secretary to Chief Minister of Punjab, Lahore.
- (12) Chief Secretary, Government of Punjab, Lahore.
- (13) Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar. } For implementation and Circulation to all subordinate Departments
- (14) Registrar, Supreme Court of Pakistan, Islamabad.
- (15) Registrar, Lahore High Court, Lahore.
- (16) Registrar, Peshawar High Court, Peshawar.
- (17) Provincial Election Commissioner Punjab, Lahore.
- (18) Provincial Election Commissioner Khyber Pakhtunkhwa, Peshawar.
- (19) Inspector General of Police, Punjab, Lahore.
- (20) Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

II. Copy also forwarded to the:

- (1) Director General (Law)
- (2) Director General (IT- Policy & Planning)
- (3) Additional Director General (Training)
- (4) Additional Director General (GSI)
- (5) Additional Director General (Elections-II)
- (6) Principal Staff Officer to Hon'ble CEC
- (7) Director to Hon'ble CEC
- (8) Director (Elector Rolls)
- (9) Director (MIS)
- (10) Director (Political Finance)
- (11) Director (MCO)
- (12) Deputy Director (Budget)
- (13) Deputy Director (Election-I & II)
- (14) Deputy Director (Confid.)
- (15) Deputy Director (Political Finance)
- (16) Deputy Director (Training)
- (17) Deputy Director (Web)
- (18) Deputy Director (Law)
- (19) PS to Hon'ble Members - I II, III & IV.
- (20) Staff Officer to Secretary
- (21) Assistant Director (Monitoring)
- (22) PS to Additional Secretary (Admn)
- (23) JPA to Special Secretary (ECP)

ECP Secretariat, Islamabad.

*Attested*  
*ASAD*  
 ASSISTANT DIRECTOR INFORMATION  
 Directorate General Information & PRs  
 Khyber Pakhtunkhwa Peshawar

*Shahid Iqbal*  
 (Shahid Iqbal)  
 Additional Director General  
 (Elections)



vote and constituting an electoral college for the election of the municipality electors of a local government under the applicable local government law.

227. Notification of election and a vacancy.—(1) The Commission shall notify every election or a vacancy occurred due to death, resignation, disqualification, and removal of a Member of a local government and publish the same in the official Gazette.

(2) Any Government, under whom a vacancy of a Member of a local government occurs due to any cause, shall immediately inform the Commission about occurrence of the vacancy.

*Explanation*.—For purposes of this section, the elected Member also includes Chairman, Vice-Chairman, Mayor, Deputy Mayor or, as the case may be, *Nazim or Naib Nazim* of a local government.

228. Bye-elections.—When the seat of a Member of a local government becomes vacant and bye-election is required to fill the seat under the applicable local government law, the Commission shall, by notification in the official Gazette, call upon the constituency or electoral college to elect a person to fill the seat on such date as may be specified in the notification and the provisions of this Act, the Rules and applicable local government law shall apply to the election to fill such seat.

229. Application of provisions to local government election.—(1) Subject to this Chapter and the Rules relating to conduct of local government elections, election disputes, election officers and allocation of symbols, the provisions of Chapter V, Chapter IX, Chapter X and Chapter XII of this Act, as nearly as possible, shall apply to the conduct of local government election.

(2) The qualifications and disqualification of a candidate in a local government election or a Member of a local government shall be decided under the applicable local government law.

CHAPTER XIV  
CARRIAGE GOVERNMENT

230. Functions of caretaker Government.—(1) A caretaker Government shall—

(a) perform its functions to attend to day-to-day matters which are necessary to run the affairs of the Government;

(b) assist the Commission to hold elections in accordance with law;

(c) restrict itself to activities that are of routine, non-controversial and urgent, in the public interest and reversible by the future Government elected after the elections; and

(d) be impartial to every person and political party.

(2) The caretaker Government shall not—

(a) take major policy decisions except on urgent matters;

(b) take any decision or make a policy that may have effect or pre-empt the exercise of authority by the future elected Government;

(c) enter into major contract or undertaking if it is detrimental to public interest;

(d) enter into major international negotiation with any foreign country or international agency or sign or ratify any international binding instrument except in an exceptional case;

*Altogether*  
*W. P. Singh*  
ASSISTANT DIRECTOR INFORMATION  
Directorate General Information & PRS  
Minister Pakhtunkhwa Peshawar

CHAPTER XV  
MISCELLANEOUS

231. Qualifications and disqualifications.—The qualifications and disqualifications for a person to be elected or chosen or to remain a Member of the *Majlis-e-Shoora* (Parliament) or a Provincial Assembly shall be such as are provided in Articles 62 and 63.

232. Disqualification on account of offences.—Where a person has been convicted for any offence under this Act or has been found guilty of any corrupt or illegal practice by a Tribunal, he shall, if the Commission is of the view that circumstances so warrant and makes an order to that effect, be disqualified for such period not exceeding five years as may be specified in the order from being, or being elected as a Member of an Assembly, the Senate or a local government.

233. Code of Conduct.—(1) The Commission shall, in consultation with political parties, frame a Code of Conduct for political parties, consisting candidates, election agents and polling agents.

(2) The Commission shall also frame a Code of Conduct for political parties, frame a Code of Conduct for political parties, consisting candidates, election agents and polling agents.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

No. SO (PSB) ED/1-11/2022/P-30  
Dated Peshawar, the March 16, 2023

12/8  
9

To

The Secretary,  
Government of Khyber Pakhtunkhwa,  
Information & Public Relations Department.

Secretary, Information

Date: 18/03/23

SUBJECT: PROMOTION OF DEPUTY DIRECTOR INFORMATION BS-18 TO THE POST OF DIRECTOR INFORMATION BS-19.

Dear Sir,

I am directed to refer to Information Department letter No. SO(INF)4-118/2022/Promotion/Vol-III, dated 30.01.2023 on the subject and to say that the promotion case of Mr. Zabita Khan at S.No. 3 of the panel was processed by circulation, however, Election Commission of Pakistan vide its notification dated 22.01.2023 issued directions to the Care-taker Government of Khyber Pakhtunkhwa for compliance of Section-230 of Election Act, 2017 and under Section-230 (2) (e) of Election Act, 2017 Care-taker Government shall not make promotion or major appointments of Public officials.

2. The working paper and other documents received with the letter quoted above are returned herewith in original with the request to remove the name of Mr. Zabita Khan from the panel and submit revised working paper by including PER for the year 2022 and final seniority list for the year 2023 as the same have now become due.

Yours faithfully,

*[Signature]*  
SECTION OFFICER (PSB) 16/3/23

Encl: As above.

ENDST. EVEN NO. & DATE.

A copy is forwarded to the Section Officer (R-I) Establishment Department.

SECTION OFFICER (PSB)

Attended

ASSISTANT DIRECTOR INFORMATION  
Directorate General Information & PRs  
Khyber Pakhtunkhwa Peshawar

AS  
16/3

*[Handwritten notes and signatures]*  
17/3/2023

**B E HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR**

40

In Ref:  
Service Appeal No. 1044/2023

Zabita khan .....Appellant

**VERSUS**

Government of Khyber Pakhtunkhwa and others.....Respondents

**AFFIDAVIT**

I, Muhammad Imran, Director General (BPS-20) of Directorate General of Information & PRs KP, Peshawar, do hereby solemnly affirm and declare on oath that the contents of accompanying Para Wise Comments on behalf of Respondents No. 2 & 4 are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

It is further stated on oath that answering respondents have neither place ex-parte nor their defense stuck off/ cost.



*Imran*

**DEPONENT**  
Respondent No.4  
CNIC# 17301-9648034-1  
Cell# 0313-9192880



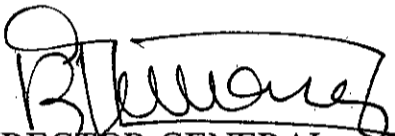
**DIRECTORATE GENERAL INFORMATION & PRs  
KHYBER PAKHTUNKHWA, PESHAWAR**

No. INF/Litigation 611  
Dated Peshawar the 20/02/2024

(11)

**AUTHORITY LETTER**

I hereby authorize Mr. Nisar Muhammad, Assistant Director (Litigation), Directorate General Information & Public Relations, Khyber Pakhtunkhwa to submit Para-wise comments on behalf of Secretary and Director General Information & Public Relations Khyber Pakhtunkhwa in Service Appeal No. 1044/2023 Zabta Khan Vs Government of Khyber Pakhtunkhwa and others.

  
DIRECTOR GENERAL  
INFORMATION & PRs, KHYBER  
PAKHTUNKHWA, PESHAWAR