

FORM OF ORDER SHEET


Court of

Appeal No. 312/2024

Order or other proceedings with signature of Judge	1
	2
	3

26/02/2024

The appeal of Syed Waqid Ali Shah resubmitted today by Mr. Noor Muhammad Khatrak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 27.02.2024. Parcha Peshi is given to counsel for the appellant.

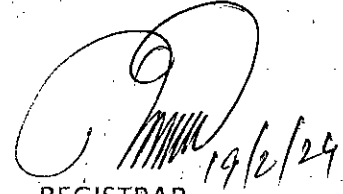
By the order of Chairman

 REGISTRAR

The appeal of Syed Wajid Ali Shah received today i.e on 16 .02.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondents no. 1 is un-necessary/improper party, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondents.

No. 372 /S.T.

DL 19/2 /2024.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Noor Muhammad Khattak Adv.
High Court, Peshawar.

R/Sr,

Resubmitted after necessary
completion.

26/2/24

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Syed Majid Ali Shah VS Government of KP.

S#	CONTENTS	YES	NO
1	This Appeal has been presented by _____	✓	
2	Whether counsel / appellant/ respondent/ deponent have signed the requisite document?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent oath commissioner?	✓	
8	Whether Appeal / Annexures are properly paged?	✓	
9	Whether Certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/ clear?	✓	
13	Whether copy of appeal is delivered to AG/ DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by Petitioner/ Appellant / Respondents?	✓	
15	Whether number of referred cases given are correct?	✓	
16	Whether appeal contains cutting / overwriting?	✓	
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this Court?	✓	
19	Whether requisite number of spare copies are attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether security and process fee deposited? On _____		✓
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, Notice along with copy of Appeal and annexures has been sent to Respondents? On _____		✓
26	Whether copies of comments / reply / rejoinder submitted? On _____		✓
27	Whether copies of comments/ reply/ rejoinder provided to opposite party? On _____		✓

It is certified that formalities /documentations as required in the above table, have been fulfilled.

Name:-

Syed Majid Ali Shah

Signature: -

[Signature]

Dated: -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL No 312 /2024

MR. SYED WAJID ALI SHAH

v/s

THE GOVT: OF KP ETC

INDEX

S.NO.	DOCUMENTS	ANNEX	PAGE
1.	Memo of Service Appeal with Affidavit	1-4
2.	Application for condonation of delay with affidavit		5-6
3.	Copy of office order dated 24/11/2001	A	7
4.	Copy of office order dated 29/01/2008	B	8
5.	Copy of Memorandum dated 05/11/2012	C	9-10
6.	Copy of judgment of Supreme Court and Circular	D&E	11-25
7.	Copies of departmental appeal and order dated 23/04/2021	F&G	23-25
8.	Vakalat Nama		26

APPELLANT

THROUGH: NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

-/-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

SERVICE APPEAL NO 312 /2024 Diary No. 1197

Dated 16-02-2024

Mr. Syed Wajid Ali Shah, Senior Scale Stenographer (BPS-16),
Office of the Forestry, Environment & Wildlife Department,
Khyber Pakhtunkhwa, Peshawar.

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE APPELLATE ORDER DATED 23.4.2021 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT FOR THE GRANT OF ONE PRE MATURE INCREMENT UPON PROMOTION TO BPS-15 W.E.F. 23.4.2021 HAS BEEN REJECTED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this service appeal the impugned appellate order dated 23.4.2021 whereby the request of the appellant for the grant of one pre mature increment on promotion to the same scale i.e. BPS-15 w.e.f. 21.2.2014 with all back benefits may kindly be set aside and the appellant may kindly be granted one pre mature increment w.e.f. 21.2.2014 with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Medto-2024
16/2/24
Registrar
16/2/24
Re-submitted to day and filed.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO 312 /2024

Mr. Syed Wajid Ali Shah, Senior Scale Stenographer (BPS-16),
Office of the Forestry, Environment & Wildlife Department,
Khyber Pakhtunkhwa, Peshawar.

..... **APPELLANT**

VERSUS

- 1- The Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE APPELLATE ORDER DATED 23.4.2021 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT FOR THE GRANT OF ONE PRE MATURE INCREMENT UPON PROMOTION TO BPS-15 W.E.F. 23.4.2021 HAS BEEN REJECTED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this service appeal the impugned appellate order dated 23.4.2021 whereby the request of the appellant for the grant of one pre mature increment on promotion to the same scale i.e. BPS-15 w.e.f. 21.2.2014 with all back benefits may kindly be set aside and the appellant may kindly be granted one pre mature increment w.e.f. 21.2.2014 with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Re-submitted to -day
and filed.

- 1- That the appellant was appointed as Junior Scale Stenographer (BPS-12) in year, 1987 on the proper recommendation of Departmental Selection Committee and since then performed his duties in the respondent department quite efficiently and with the entire satisfaction of his superiors and the appellant on 24/11/2001 was granted Selection Grade in BPS-15 by the respondent department w.e.f 09/09/1999. Copy of office order dated 24/11/2001 is attached as annexure.....**A**
- 2- That thereafter on 29/01/2008 the appellant was promoted from the post of Junior Scale Stenographer (BPS-12) to Senior Scale Stenographer (BPS-15) on regular basis. Copy of office order dated 29/01/2008 is attached as annexure.....**B**
- 3- That the Govt: of Pakistan Finance Division (Regulation Wing) through a memorandum dated 05/11/2012 grant/allow premature increment to those employees, who were promoted within the same scale. Copy of Memorandum dated 05/11/2012 is attached as annexure.....**C**
- 4- That one premature increment was granted in the light of the judgment of the Supreme Court of Pakistan as well as in the light of circular of finance department dated 21/02/2014. Copy of judgment of Supreme Court and Circular are attached as annexure.....**D&E**
- 5- That feeling aggrieved from the inaction of the respondent, the appellant filed departmental appeal, which was regretted vide appellate order dated 23/04/2021. Copies of departmental appeal and order dated 23/04/2021 are attached as annexure.....**F&G**
- 6- That the appellant having no efficacious remedy, filed the instant writ petition on the following grounds amongst the others.

GROUND:

- A- That the inaction of the respondents by not granting premature increment to the appellant is against the Law, Facts and norms of natural justice, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondents in accordance with law and rules and as such the respondents violated Article 4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the respondents discriminated the appellant on the subject noted above and as such the respondents violated the policy of the provincial government.
- D- That one premature increment was granted into the appellant in the light of the judgment of the Supreme Court of Pakistan as well as in the light of circular of finance department dated 21/02/2014.
- E- That the impugned action and inaction of the respondent department is against the law and policy in vogue, therefore, the same may kindly be set aside.
- F- That the action and inaction of the respondents is based on malafide and arbitrary intention, hence not tenable and liable to be set aside.
- G- That the appellant seeks his relief on the principle of consistency, which has been laid down by the supreme court of Pakistan in a judgment reported in 1996.
- H- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

THROUGH: NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

CERTIFICATE:

No such like appeal is pending or filed between the parties on the subject matter before this Honorable Tribunal.

[Signature]
Advocate

AFFIDAVIT

I, **Mr. Syed Wajid Ali Shah**, Senior Scale Stenographer (BPS-16), Office of the Forestry, Environment & Wildlife Department, do hereby solemnly affirm on oath that the contents of the above appeal are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.

[Signature]
DEPONENT



- 5 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO _____/2024

MR. SYED WAJID ALI SHAH

v/s

THE GOVT: OF KP ETC

APPLICATION FOR CONDONATION OF DELAY IN FILING
THE ABOVE NOTED APPEAL.

R/SHEWETH:

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so for.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal on the following grounds inter alia:

GROUND OF APPLICATION:

A- That valuable rights of the appellant are involved in this case hence the appeal deserves to be decided on merit.

B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather than technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.

C-That on the face of it, the applicant/ petitioner has got strong arguable case and is sanguine about its success.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

APPELLANT

THROUGH: NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

AFFIDAVIT

I, **Mr. Syed Wajid Ali Shah**, Senior Scale Stenographer (BPS-16), Office of the Forestry, Environment & Wildlife Department, do hereby solemnly affirm on oath that the contents of the above application are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.



[Handwritten Signature]
DEPONENT

A

"A"

-7-

137

GOVERNMENT OF NWFP
FORESTRY, FISHERIES & W/LIFE
DEPARTMENT.

Dated Peshawar the November 24, 2001.

ORDER.

NO.SO(G/A)FFWD/1-499/2001. The competent authority, on the recommendations of the Departmental Promotion Committee is pleased (to allow grant of Selection) Grade in BPS 15 to Mr. S.Wajid Ali Shah, Stenographer, (BPS-12) Budget and Accounts Cell, FFW Department with effect from 09-09-1999.

SECRETARY TO GOVT OF NWFP
FORESTRY, FISHERIES AND W/LIFE
DEPARTMENT.

Subject: NO.SO(G/A)FFWD/1-499/2001

6149-55

Dated 24th Nov: 2001.

Copy forwarded to:-

1. The Director, Budget and Accounts, FFW Department, NWFP.
2. The Budget and Account Officer, FFW Department, NWFP.
3. The P.S. to Secretary to Govt of NWFP, FFW Department.
4. The official concerned
5. Officer order file.

ATTACHED


(MASOOD AHMAD)
SECTION OFFICER (G/A)

Better Copy

Page No 7

**GOVERNMENT OF NWFP
FORESTRY, FISHERIES & W/LIFE
DEPARTMENT**

Dated Peshawar, the November, 24, 2001

ORDER

No. SO (G/A)FFWD/1-499/2001, The competent authority, on the recommendations of the Departmental Promotion Committee is pleased to allow grant of Selection Grade in BPS-15 to Mr. S. Wajid Ali Shah, Stenographer, BPS-12, Budget and Accounts Cell, FFW Department with effect from 09/09/1999.

Secretary to Govt of NWFP
Forestry, Fisheries & W/Life
Department.

Endst: No SO(G/A)FFWD/1-499/2011

Dated 24th Nov, 2011

Copy forwarded to:-

1. Director, Budget & Accounts FFW Department, NWFP
2. The Budget & Account Officer, FFW Department, NWFP
3. The P.S to Secretary to Govt: of NWFP, FFW, Department
4. The Official concerned
5. Officer Order File.

(Masood Ahmad)
Section Officer (G/A)

~~RECEIVED~~

R

"B" -8-

X
151

GOVERNMENT OF NWFP
ENVIRONMENT DEPARTMENT.

Dated Pesh: 29-01-2008

ORDER

NO.SO(Estt)/Env/1-3/2K5: On the recommendation of Departmental Promotion Committee, the Competent Authority is pleased to promote Syed Wajid Ali Shah, Junior Scale Stenographer (BPS-12) of Directorate of Budget & Accounts, Environment Department to the rank of Senior Scale Stenographer (BPS-15), on regular basis with immediate effect.

SECRETARY TO GOVT. OF NWFP
ENVIRONMENT DEPARTMENT.

Endst. NO.SO(Estt)/Env/1-3/2K5

149-54

Dated 29.01.2008.

Copy is forwarded to:-

1. The Director Budget & Accounts, Environment Department.
2. PS to Secretary Environment Department, NWFP.
3. PA to Deputy Secretary-I, Environment Department.
4. The official concerned.
5. Master file.
6. Office Order file.

(Signature)
(SYED AFZAL SHAH)
SECTION OFFICER (ESTT)

1000
1/2/08

ATTACHED

Adm

'C' -9-

12:05 From:

0519252256

To: 0066666666

Page: 1

NE: MF

FAX NO. 0092519213700

No. 07 2012 1000004 P1

ATT: MR. SHAMID HAMEED

Government of Pakistan
Finance Division
(Regulations Wing)

Islamabad, 5th November, 2012.

No. F. 11(30)R-1/2010 1/80

OFFICE MEMORANDUM

Subject: GRANT OF PREMATURE INCREMENT ON PROMOTION WITHIN THE SAME SCALE

The undersigned is directed to say that vide Finance Division's O.M. No. F.2(3)R-1/20 dated 17-11-1991, it was, inter-alia, decided to allow next stage equal to one increment on fixation of pay in the cases where a Government Servant already drawing pay in a pay scale by virtue of selection grade, or, otherwise holding a lower post in the pay scale is promoted to a higher post falling in the same scale.

2. The pay fixation procedure contained in paras (iii) and (vii) of the Annexure to the Auditor General of Pakistan (Regulations) Islamabad u.o. No. AT.50/93/Reg.1/14/C/87-KW dated 26-05-1993 provides as under:-

(iii) "The National pay scales however, provide a uniform and simple formula for fixation of pay i.e. on promotion from a lower post to a higher post, where the fixation under normal rules gives an increase of pay equal to or less than one full increment of pay scale of the higher post, pay will be fixed by allowing the benefits of one premature increment in the pay scale of the higher post."

X	X	X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X	X	X

(vii) "As such, in the situations under discussion for the purpose of fixation of pay, the civil servants concerned would be treated as having been promoted to the post carrying the same pay scale and their pay fixed according to the formula discussed in (iii) above."

3. The above said benefit of premature increment within the same scale was withdrawn ab initio vide Auditor General of Pakistan letter No. 164/R-1/14C/87KW/267 dated 26-08-1996, which was challenged by the affectedes in the Court of Law. The Supreme Court of Pakistan Islamabad passed a judgment dated 22-01-2001 in Civil appeals No. 1371 to 1392 of 1997 filed by Mr. Saeed Ahmad and others against a common judgment dated 15-05-1997 passed by the FSI Lahore in Appeals No. 23(L) of 1997, as under:-

"we allow the appeals by setting aside the impugned judgment dated 15-05-1997 holding that the case of the appellants is not affected by circular dated 26-08-1996"

RECEIVED

**Government of Pakistan
Finance Division
(Regulation Wing)**

No F.11(30)R-2/2010/180

Islamabad, 5th November, 2012

Subject:- **GRANT OF PREMATURE INCREMENT ON PROMOTION
WITHIN THE SAME SCALE.**

The undersigned is directed to say that vide Finance Division OM No F.2(8)R-(84) dated 17/11/1991, it was, inter alia, decided to allow next stage equal to once interment on fixation of pay in the cases where a Government Servant already drawing pay in Pay Scale by virtue of selection grade, or, otherwise holding a lower post in the pay scale is promoted to a higher posts falling in the same scale.

2. The pay fixation procedure contained in Paras (iii) and (vii) of the Annexure to the Auditor General of Pakistan (Regulations) Islamabad O.O No 50/963/Reg.1/14/C/87-KW dated 26/06/21998 provides as under:-

(iii). "The National Pay scales, however, provide a uniform and simple formula for fixation of pay i.e. on promotion from a lower post to a higher post, where the fixation under normal rules given on increase of pay equal to or less than one full increment of pay scale of the higher post, pay will be fixed by allowing the benefits of one premature increment in the pay scale of the higher post.

X	X	X	X	X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X	X	X	X	X

(vii). As such, in the situation under discussion for the purpose of fixation of pay, the civil servants concerned would be treated as having been promoted to the posts carrying the same pay sale and their pay fixed according to formula discussed in (iii) above.

3. The above said benefits of premature increment within the same scale was withdrawal above vide Auditor General of Pakistan letter No 064/R-1/14c/87KW/267 dated 26th Dec, 1996, which are challenged by the effectees in the court of law. The Supreme Court of Pakistan, Islamabad passed judgment dated 22/01/2001 in Civil Appeals NO 1371 to 1392 of 1997 filed by Mr. Saeed Ahmad and others against a common judgment dated 15/05/1997 passed by the FST Lahore in Appeal No 281 to 19(L) of 1997 as under:-

"We allow the appeals by setting aside the impugned judgment dated 15/05/1997 the case of appellants is not affected by circular dated 26/08/1996"



FINANCE NF

FAX NO. : 0092519213700

Nov. 07 2012 10:23AM PD

(2)

4. The above orders of the honorable Supreme Court of Pakistan have already been implemented to the extent of the appellants.

5. In pursuance of the judgment of the Supreme Court of Pakistan in Mr. Hamid Akhtar-Niaz's case (1996 SCMR 1185), it has been decided that the benefit of judgment of the Supreme Court of Pakistan mentioned above may be extended in all other similar cases to the non-litigating employees. Accordingly, in partial modification of Finance Division's O.M. referred to at para-1 above, it has been decided to allow one premature increment in the pay scale of the higher post in fixation of pay on promotion within the same scales.

(IRSHAD AHMED)
Section Officer (R-2)

All Ministries/Division/Departments.

RECEIVED

4. The above orders of the Honourable Supreme Court of Pakistan have already been implemented to the extent of the appellants.

5. In pursuance of the judgment of the Supreme Court of Pakistan in Mr. Hameed Akhtar Niaz case (1996 SCMR 1185) it has been decided that the benefits of judgment of the Supreme Court of Pakistan mentioned above may be extended in all other similar cases to the non-litigation employees accordingly. In partial modification of Finance Division OM referred to at Para-1 above, it has been decided to allow on premature increment in the pay scale of the higher post in fixation of pay on promotion within the same scale.

(Irshad Ahmad)
Section Officer (R-2)

All Ministries/Division/Departments

ATY

1996 S C M R 1185

-11-

19
Dⁿ

[Supreme Court of Pakistan]

Before Ajmal Mian, Saiduzzaman Siddiqui and Mukhtar Ahmad Junejo, JJ

HAMEED AKHTAR NIAZI---Appellant

versus

THE SECRETARY, ESTABLISHMENT DIVISION, GOVERNMENT OF
PAKISTAN and others---Respondents

Civil Appeal No.345 of 1987, decided on 24th April, 1996.

(On appeal from the judgment dated 11-12-1986 of the Federal Service Tribunal, Islamabad, passed in Appeal No. 124(L) of 1980).

Per Ajmal Mian, J.; Saiduzzaman Siddiqui, J. agreeing---

(a) Civil Servants Act (LXXI of 1973)---

----S. 8(4)---Constitution of Pakistan (1973), Art. 212(3)---Establishment Secretary's D.O. Letter No.2/4/75-AVI, dated 2-10-1975---Seniority---Merger of four occupational groups of civil servants---Leave to appeal was granted to consider the questions as to whether the seniority list of 1979 was properly prepared in accordance with law and what was the effect of the reliance from the Government side in the Supreme Court in another appeal on the list of 1976; whether when preparing the list of 1979, S. 8(4) of the Civil Servants Act, 1973 and other related provisions of law had been kept in view; whether a civil servant could be allowed to count his seniority in a post from a date earlier than the one of his actual regular continuous officiation in that post; if not whether the fact that the respondents in appeal belonged to the different civil services of Pakistan would make any difference; whether one uniform principle of seniority would apply to all members of the Secretariat Group or the officers joining the Group from different sources/cadres would have to be treated differently; if so, whether such treatment with or without the support of statutory rules or directions would not be in contravention of the relevant provisions of Civil Servants Act, 1973 and in that context what was the effect of the abolition of C.S.P. Cadre; whether the eligibility of civil servant for appointment to a selection post conferred any right of seniority in that post and cadre without issuance of a formal promotion/appointment order in accordance with the prescribed procedure and

whether in that context a civil servant belonging to ex C.S.P. Cadre was entitled to automatic promotion to the post of Deputy Secretary after he had completed eight years of service but without the requirement of being actually selected/promoted or appointed; and what was the effect of the Supreme Court judgment in KhizarHaiderMalik ad others v Muhammad RafiqMalik and another 1987 SCMR 78 on the case.

(b) Civil Servants Act, (LXXI of 1973)---

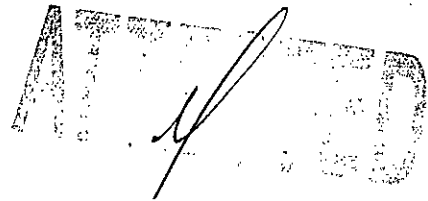
----Ss. 8 & 23---Seniority---Merger of C.S.P and P.S.P cadres and creation of APUG--Seniority of such an officer, who was working in province or elsewhere, could not be distorted/disturbed to his detriment on account of the merger of said groups and creation of APUG and junior of such civil servant could not be made senior to him nor a junior to his junior could be made senior to him but this has to be done within the framework of the rules of reorganization of services---If the case of any civil servant does not fall within the ambit of said re-organisation rules, S. 23 of the Civil Servants Act, 1973 can be pressed into service by the President of Pakistan to oblivate the inequitable and unjust result arising out of the merger of the two cadres in respect of seniority of any of the civil servants.

ESTACODE, 1989 Edn., pp. 1014, 1096 and 1097 ref.

(c) Service Tribunals Act (LXX of 1973)---

----S. 4---Constitution of Pakistan (1973), Art.212---Appeal to Service Tribunal or Supreme Court---Effect---If the Service Tribunal or Supreme Court-decides a point of law relating to the terms of service of a civil servant which covers not only the case of civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates and rule of good governance demand that the benefit of such judgment by Service Tribunal/Supreme Court be extended to other civil servants, who may not be parties to the litigation instead of compelling them to approach tire Service Tribunal or any other forum.

Per Mukhtac Ahmad Junejo, J.---



(d) Service Tribunals Act (LXX of 1973)---

----S. 4---Appeal to Service Tribunal, scope and extent.

M. Bilal, Senior Advocate Supreme Court and Ejaz Muhammad Khan, Advocate-on-Record for Appellant.

Raja Muhammad Bashir, Deputy Attorney-General and Ch. Akhtar Ali, Advocate-on-Record for Respondents.

Dates of hearing: 7th and 8th April, 1996.

JUDGMENT

AJMAL MIAN, J.---This is an appeal with the leave of this Court against the judgment dated 11-12-1986 passed by the Federal Service Tribunal, Islamabad, hereinafter referred to as the Tribunal, passed in Appeal No.124(1)

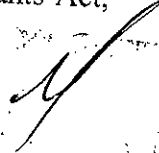
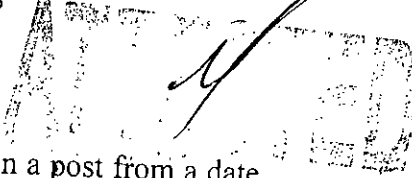
of 1980, filed by the appellant, praying for the following reliefs:--

"16. In view of the above, the appellant (who was eventually promoted with effect from 28-8-1980) humbly prays that this honourable Tribunal may kindly direct the respondent No. 1 to proceed in accordance with law and to declare him to have been promoted before the ineligible and junior officers promoted in August, 1979 and February and May, 1980. It is further prayed that full salary and all other benefits may also kindly be allowed to the appellant from the date on which he would have been promoted if his name had been put up for the consideration of the C.S.B. according to his seniority. Cost may also graciously be allowed."

dismissing the same for the reasons recorded in Appeal NO. I 16(R) of 1981, filed by one M. RamizulHaq.

2. Leave to appeal was granted to consider inter alia the following questions:--

- (a) Whether the seniority list of 1979 was properly prepared in accordance with law and what is the effect of the reliance from the Government side in the Supreme Court in another appeal on the list of 1976?
- (b) Whether when preparing the list of 1979, section 8(4) of the Civil Servants Act, 1973 and other related provisions of law, have been kept in view?
- (c) Whether a civil servant can be allowed to count his seniority in a post from a date earlier than the one of his actual regular continuous officiation in that post; if not, whether the fact that the respondents belonged to the defunct Civil Service of Pakistan will make any difference?

ATTESTED



(d) Whether one uniform principle of seniority will apply to all members of the Secretariat Group or the officers joining the Group from different source/cadres would have to be treated differently; if so, whether such treatment whether with or without the support of statutory rules or directions would not be in contravention of the relevant provisions of the Civil Servants Act, 1973, and in this context what is that effect of the abolition of the C.S.P. Cadre? and

(e) Whether the eligibility of a civil servant for appointment to a selection post confers any right of seniority in that post and cadre without issuance of a formal promotion/appointment order in accordance with the prescribed procedure and whether in this context a civil servant belonging to ex-C.S.P cadre is entitled to automatic promotion to the post of Deputy Secretary after he completes eight years of service but without the aforementioned requirement of being actually selected/promoted or appointed? and

(f) What is the effect on this case of the judgment of this Court in Khizar Haider Malik and others v. Muhammad Rafiq Malik and another 1987 SCMR 78.?

3. It may be observed that the order of granting leave was recalled on 10-2-1992, but upon review, the same was set aside through an order dated 14-2-1994 and thereby the aforesaid leave granting order was restored.

4. The brief facts are that the appellant joined Pakistan Military Lands and Cantonments Service on the basis of the results of competitive examination held in June, 1960. It is the case of the appellant that in 1967, he proceeded to U.S.A. on study leave and obtained a Master's Degree in Public Administration from the Maxwell School of Public Affairs and Citizenship, Syracuse University. It is also his case that in June/July, 1972, the Planning Division recommended him for promotion to the post of Deputy Secretary to the Government of Pakistan. It is his further case that pending approval of the Establishment Division, Planning Division promoted him as Deputy Secretary by an order dated 9-8-1972. The above order reads as follows:--

"OFFICE ORDER

It has been decided that Mr. Hameed Akhtar Niazi, PML & CS will look after the work of Deputy Secretary (Administration) with immediate effect. He will be designated as Officer on Special Duty (Administration).

Mr. Zafar Iqbal is posted as Deputy Secretary, Programming."

It has also been averred by the appellant that he was promoted as Deputy Secretary on regular basis on 9-4-1973 and posted in the Establishment Division.

5. It seems that in August, 1973, C.S.P. and P.S.P. cadres were merged into All Pakistan Unified Grades, hereinafter referred to as APUG. It further seems that after the aforesaid merger, four occupational groups were created, namely, Tribal Areas Group, District Management Group,, Secretariat Group and Police Group. The appellant opted for the Secretariat Group. It is the case of the appellant that the Gradation List of Deputy Secretaries i.e. of the Secretariat Group was prepared in accordance with the provision of section 8(4) of the Civil Servants Act, 1973, hereinafter referred to as the Act, which provides that "Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post". According to the appellant, the above Gradation List was circulated in June, 1976, wherein the appellant's name appeared at Serial No. 69. However, the appellant learnt in August, 1979, that civil servants belonging to erstwhile Civil Service of Pakistan (C.S.P.), whose names appeared much below the appellant in the aforesaid Gradation Lists of 1976, were being promoted to the rank of Joint Secretary (Grade-20) and his name had not been put up for promotion to the General Selection Board for consideration . He first made efforts to get redress from the department, but eventually, he filed the aforementioned service appeal in the Tribunal, which way dismissed as stated above. After that he filed a petition for leave to appeal in this Court, which was granted to consider the above questions.

6. It may be pertinent to observe that in the above appeal, besides the Federation, 14 civil servants were arrayed as respondents. It may further be observed that, in addition to the above respondents, 7 other civil servants were impleaded pursuant to an application dated 4-1-1988. Dr. Sh. AleemMehmood was impleaded as a respondent (respondent No. 23 in the present appeal) on his own application, whereas the applications of Muhammad Aslam and TariqJunejo for being impleaded, remained pending till today: However, they were heard. One, MalikZahoorAkhtar, has also appeared though he had not filed any application for getting himself impleaded in the aforesaid appeal.

7. Be that as it may, in support of the above appeal, Mr. M. Bilal, learned Sr. A.S.C. for the appellant, has vehemently contended that after the merger of the two cadres, namely, C. S. P. and P. S. P. and creation of APUG, the Gradation List of the Deputy Secretaries prepared in 1976 could not have been disturbed and that certain civil servants could not have been given seniority over the appellant from a date prior to their regular appointments as the Deputy Secretaries in the above cadre. To reinforce the above submission, reliance has been placed by him inter alia on section 8(4) of the Act and para. 8 of ESTACODE, 1989 Edition, under the caption "Secretariat Group" at Serial No. 19 incorporated on the authority of O.M.No.2/2/75-ACR, dated 12-4-1976.

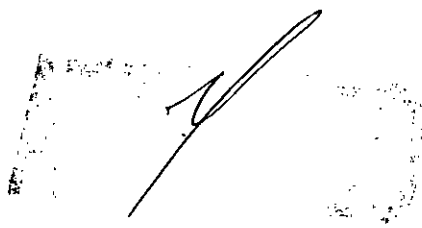
The aforementioned newly added respondent supports Mr. Bilal's contention.

On the other hand, Mr. Raja Muhammad Bashir, learned Deputy Attorney-General, has contended that seniority inter se of the civil servants belonging to C.S.P. cadre obtaining prior to its merger could not have been distorted to the detriment of any of the above civil servants and, therefore, if C.S.P. officers, who were not actually posted as Deputy Secretaries but were deputed to various Provinces on account of public exigencies, could not have been made junior to civil servants who were junior to them prior to the merger of aforesaid two cadres and who were working as Deputy Secretaries and were senior inter alia to the appellant.

8. It appears that the Tribunal proceeded on the premises as urged by learned Deputy Attorney-General. It may be advantageous to reproduce the relevant portion of the impugned judgment, which reads as follows:--

"It appears that the question of seniority was not examined when persons not being Members of the Service were appointed to APU J with the approval of the President vide Notification No.1/1/73-ARC, dated 14-9-1973. Nevertheless, the seniority lists were prepared of the Deputy Secretaries and Joint Secretaries, etc. and they included only those officers of the former C.S.P. who at the relevant time were serving against these posts. At that time, the Rule for appointment of the Deputy Secretaries was that a C.S.P. Officer who had completed 8 years' service could be appointed as Deputy Secretary. No doubt, subsequently by Office Memo. No.3/7/74-AR.II, dated the 20th May, 1974, 12 years period was provided for Grade-19 and for horizontal movement of Grade-18 Officers to the post of Deputy Secretary vide para. 3 of Office Memo. No. 2/2/75-ARC, dated 21-2-1975, but this deviation in the length of service is immaterial as far as C.S.P. Officers are concerned. Their names already existed as Members of C.S.P. and subsequently of APUG. Their seniority was to be changed in accordance with some principle and not by making any rule affecting their vested right. All Rules made under the Civil Servants Act or the Civil Servants Ordinance have to be construed with prospective operation and not with retrospective operation. All those Rules which affect the former Officers of the C.S.P. have to be applied for the situations existing after the enactment of the Civil Servants Ordinance, 1973, and the Rules made thereunder. The seniority of the C.S.P. Officers in APUG could not, therefore, be distorted. Any seniority to which a Member of the Cadre was entitled before the constitution of Secretariat Group, could not be affected by the provisions of section 8(4) of the Civil Servants Act, 1973. In other words, the seniority of such a person cannot be destroyed by any subsequent change in the principles of seniority. By making a provision in the relevant Officer Memorandum that seniority shall count from the date when an officer becomes Deputy Secretary or is promoted to Grade-19, whichever is earlier, the distortion in the seniority of other Federal Services was removed, but in case of C.S.P. Officers this formula could not work as there was no scale comparable to Grade-19 (Junior Administrative Grade) and the C.S.P. Officers used to be promoted to the Joint Secretary's grade from Senior C.S.P. Scale which is comparable with Grade-18, and the post of Deputy Secretary was never a promotion post in the cadre. Thus, in our opinion, if after the coming into force of the Civil Servants Act, an officer of former C.S.P. who was senior to his colleagues working as Deputy Secretary in the Secretariat, but an officer who was working, in the Province or elsewhere would, when brought to the Secretariat later, retain his seniority vis-a-vis his own colleagues. In other words, if an officer of the former C.S.P. is appointed as Deputy Secretary in the Secretariat Sub-Group, within APUG, he would count his seniority from the date he completes 8 years of service if any of his colleagues junior to him had already been promoted. It is this principle, which the Establishment Division has applied and we think that this is a proper course by which the distortion in the seniority can be removed."

9. In this regard, it may be pertinent to refer to page 1014 of the ESTACODE 1989 Edition, in which under the caption "Reorganisation of APUG in to four Occupational Groups Seniority of members of the Group" at Serial No. 17 has provided as under on the basis of Establishment Secretary's D.O. Letter No.2/4/75-AVI, dated 2-10-1975:--

A handwritten signature in black ink is written over a circular official stamp. The signature is slanted and appears to be a name. The stamp is mostly illegible but contains some faint text and a central emblem.

Kindly refer to Establishment Secretary's Circular D.O. Nos.5/1/73 ARC, dated the 7th September, 1973, 2/2/73-AVI, dated the 26th November, 1973, and 2/1/74-AVI, dated the 29th May, 1974, alongwith which the combined seniority lists of officers of All-Pakistan Unified Grades in various grades were circulated.

2. In the meantime, the All-Pakistan Unified Grades has been organised into four Occupational Groups---the Secretariat Group, the District Management Group, the Police Group and the Tribal Areas Group. The rules and procedures etc. governing the administration of each of these Groups have already been issued and sent to you vide the Establishment Division's Office Memoranda No.2/2/75-ARC, dated 21st February, 1975 (Secretariat Group) No.2/2/74-ARC, dated 23rd February, 1974 (District Management Group), No.3/2/75-ARC, dated 31st May, 1975 (Police Group) and D.O. No. 1/6/73-ARC, dated 20th October, 1973 (Tribal Areas Group). Consequently the seniority lists have now been drawn up separately in respect of each Group.

3. As already indicated, each group will henceforth be managed under the respective rules quoted above. A member of a particular Group will be governed by prospects of promotion and advancement available within the Group. While entry into other Groups by horizontal movement is possible with the approval of Central Selection Board, there will be no automatic mobility from one Group to the other. In other words, officers shown in any particular Group will now belong to that Group once for all unless specifically selected and approved for movement to another Group.

4. You may now kindly inform the officers under your administrative control accordingly. Officers shown in the Secretariat Group but belonging originally to some other Group may let this Division know finally as to whether they would like to remain in the Secretariat Group or go back to their parent Group. Option once exercised will- be final. Such option should reach us not later than 31st October, 1975. Failure to exercise option by that date will be presumed to be an option for the Group where the name appears presently.

5. In the meantime, these lists may be treated as provisional and in case there are any omissions or discrepancies, these may please be communicated to us immediately for rectification."

10. Reference may also be made to paras. 3 and 8 of the ESTOCODE, 1989 Edition, at pages 1096 and 1097 thereof under the caption "Secretariat Group" at Serial No. 19 and which read as under:--

~~ATTACHED~~

Para. 3 of the ESTACODE: 3. Deputy Secretary.--Appointment to the post of Deputy Secretary will be made in accordance with the following methods: --

(i) By promotion of Grade-18 Officers of Office Management Group and the Secretariat Group on the recommendations of the Central Selection Board.

(ii) By horizontal movement from other Occupational Groups of Grade 19 Officers who have been recommended by the Ministries/Divisions, Departments or Provincial Governments and have been found fit by the Central Selection Board.

(iii) By direct appointment or the recommendations of the Federal Public Service Commission of persons possessing such qualifications and experience etc., as may be prescribed.

Para. 8 of the ESTACODE: 8. Deputy Secretary.--Seniority would be determined from the date of continuous regular officiation as Deputy Secretary, or in a post in Grade-19, whichever is earlier."

11. We may observe that in the present case, section 8(4) of the Act is relevant as it will be covered by the rules framed for regulating APUG. It is evident from aforequoted para. 4 of ESTACODE, 1989 Edition, at page 1014 that after the creation of Secretariat Group, the civil servants were given the option to opt the above Group or any other Group by 31-10-1975. Whereas above quoted para. 3 of the ESTACODE at page 1096 under the caption "Secretariat Group" at Serial No.19, indicates as to how the appointment to the post of Deputy Secretary will be made i.e. by promotion of Grade-18 Officers by horizontal movement and by direct appointment on the recommendation of the Federal Public Service Commission.

12. It may further be noticed that para. 8 of the above ESTACODE at page 1097 provides that seniority would be determined from the date of continuous regular officiation as Deputy Secretary or in a post in Grade-19, whichever is earlier.

13. The Tribunal has not taken into consideration that above relevant provisions of the ESTACODE while dilating upon the controversy in issue. It should have decided, whether the respondents had exercised the options in terms of aforesaid para. 4 of the above ESTACODE at page 1014, by 31-10-1975 and whether the seniority list was prepared as per aforequoted para. 8 of the ESTACODE, i.e. from the date of continuous regular officiation as Deputy Secretary or in a post in Grade-19, whichever is earlier.

14. There is no doubt that the seniority of an officer, who is working in a Province or elsewhere, cannot be distorted/disturbed to his detriment on account of the merger of above two cadres of C.S.P. and P.S.P. and creation of APUG. His junior cannot be made senior to him nor a junior to his junior can be made senior to him. But, this is to be done within the framework of the rules of reorganisation as given in the above ESTACODE. If the case of any civil servant does not fall within the ambit of the above rules, section 23 of the Act can be pressed into service by the President to obliterate the inequitable and unjust result arising out of the above reorganisation in respect of seniority of any of the civil servants.

15. It was also contended by Mr. Raja Muhammad Bashir, learned Deputy Attorney-General, that since that appellant has already been promoted to Grade-20, the above

appeal has become in fructuous. However, this contention was refuted by Mr. Bilal and it was urged by him that the appellant is entitled to get his seniority restored according to the rules.

16. In our view, it will be just and proper to remand the case to the Tribunal with the direction to re-examine the above case after notice to the affected persons and to decide the same afresh in the light of above observations. We may observe that if the Tribunal or this Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings; in such a case, the dictates of justice and rule of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the Tribunal or any other legal forum.

17. The above appeal stands disposed of in the above terms, with no order as to costs.

(Sd.)

AjmalMian, J.

(Sd.)

SaiduzzamanSiddiqui, J.

MUKHATAR AHMAD JUNEJO, J.--My learned brother AjmalMian, J. was kind enough to send me draft of the judgment proposed to be delivered by him in Civil Appeal No.345 of 1987 (HameedAkhtarNiazi v. The Secretary, Establishment Division, Government of Pakistan etc.) With due 'respects to my learned brother, I am unable to agree with' him that this matter be remanded to the Federal Service Tribunal with some directions including the direction to re decide the case.

The facts of the case have already been given by my learned brother and they need not be reiterated. In the context of the facts given in para.4 of the draft judgment, appellant HameedAkhtarNiazi filed his appeal before the Federal Service Tribunal under section 4 of the Service Tribunals Act with prayer in the following words:

ATTACHED

"In view of the above the appellant who was eventually promoted with effect from 28-8-1980 humbly prays that this Honourable Tribunal may kindly direct the respondent No.1 to proceed in accordance with law and to declare him to have been promoted before the ineligible and junior officers promoted in August, 1979 and February and May, 1980. It is further prayed that full salary and all other benefits may also kindly be allowed to the appellant from the date on which he would have been promoted if his name had been put up for the consideration of the C.B.S. according to his seniority. Cost may also graciously be allowed. "

Perusal of the prayer shows that the appellant seeks his promotion from a date earlier than the dates of promotion of certain officers termed by him to be ineligible and

junior. According to section 4 of the Service Tribunals Act, a civil servant can invoke jurisdiction of the Tribunal in respect of any of his terms and conditions of service. However, no appeal shall lie to a Tribunal against an order or decision of a departmental authority determining the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post or grade, vide clause (b) of the proviso to section 4 of C the said Act. By asking the Tribunal to direct his promotion on a date earlier than the promotion of ineligible and junior officers, the appellant wanted the Tribunal to determine him to be fit for promotion and to determine the other officers to be ineligible for promotion by labelling them as ineligible. As regards the claim for salary and monetary benefits, the same is again based on the presumptive promotion of the appellant. Since the main relief of promotion cannot be given to the appellant by the Tribunal, the consequential relief can also not be given to him.

In my humble view appellant's appeal before the Federal Service Tribunal was not maintainable and it required to be rejected. In my humble view this appeal merits dismissal.

(Sd.)

Mukhtar Ahmad Junejo, J.

ORDER OF THE COURT

By majority judgment this appeal is allowed, .The case is remanded to the Tribunal in terms of the majority view.

(Sd.)

AjmalMian, J.

(Sd.)

SaiduzzamanSiddiqui, J.

(Sd.)

Mukhtar Ahmad Junejo, J.

M.B.A./H-251/S

ATTACHED

Appeal allowed

**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

NO FD (SOSR-1) 2-123/2014

Peshawar the 21 February, 2014

1. All Administrative Secretaries Govt of Khyber Pakhtunkhwa
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
5. The Secretary Provincial Assembly, Khyber Pakhtunkhwa
6. The Secretary Finance, FATA, FATA Secretariat, Peshawar
7. All Heads of attached departments in Khyber Pakhtunkhwa
8. All Divisional Commissioners in Khyber Pakhtunkhwa
9. All Political Agents/District & Sessions Judges in Khyber Pakhtunkhwa
10. The Registrar, Peshawar High Court, Peshawar.
11. The Chairman Public Service Commission, Khyber Pakhtunkhwa
12. The Chairman Service Tribunal, Khyber Pakhtunkhwa
13. The Accountant Gen Pakhtunkhwa Peshawar

Subject:- **GRANT OF PREMATURE INCREMENT ON PROMOTION
WITHIN THE SAME SCALE.**

Dear Sir,

I am directed to refer to the subject noted above and to say that under Rule 10 (2) of the Khyber Pakhtunkhwa Civil Services Pay Revision Rules-1978, one advance increment is admissible to the Civil Servants, at the time of their promotion to higher posts, who are already drawing pay in the basic pay scales of the higher post

2. Now, in pursuance to the Government of Pakistan, Finance Division Islamabad Office Memorandum No F 11(30)R-2/2010-1150 dated 5th Noveniber 2012 (copy enclosed), the competent authority is pleased to allow one premature increment in the pay scales of the higher post in fixation of pay on promotion within the same pay scale in all cases of promotion to higher posts carrying the same basic pay scales meaning thereby that one advance increment as next stage and another as a premature increment will be admissible in such cases of promotion.

3. These orders will be effective from the date of its issuance

Yours faithfully,

(RAZAULLAH KHAN)

Addl: Secretary (Regulation)

Dated 21 Feb, 2014

Endst: No FD (SOSR-1) 2-123/2014

Copy for information & necessary action to the:-

1. The Director, Treasuries & Accounts. Khyber Pakhtunkhwa
2. All the District Comptroller of Accounts in Khyber Pakhtunkhwa
3. The Director Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.

ATTESTED

E



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

"E" - 21-

NO. FD (SOSR-1) 2-123/2014
Dated Peshawar the 21st February, 2014

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. All Heads of Attached Departments in Khyber Pakhtunkhwa
8. All Divisional Commissioners in Khyber Pakhtunkhwa.
9. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
10. The Registrar, Peshawar High Court, Peshawar.
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

Subject: GRANT OF PREMATURE INCREMENT ON PROMOTION
WITHIN THE SAME SCALE. ✓

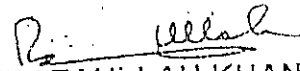
Dear Sir,

I am directed to refer to the subject noted above and to say that under Rule 10 (2) of the Khyber Pakhtunkhwa Civil Services Pay Revision Rules – 1978, one advance increment is admissible to the Civil Servants, at the time of their promotion to higher posts, who are already drawing pay in the basic pay scales of the higher post.

Now, in pursuance to the Government of Pakistan, Finance Division, Islamabad, Office Memorandum No.F.11(30)R-2/2010-1150 dated 5th November, 2012 (copy enclosed), the competent authority is pleased to allow one premature increment in the pay scales of the higher post in fixation of pay on promotion within the same pay scale in all cases of promotion to higher posts carrying the same basic pay scales, meaning thereby that one advance increment as next stage and another as a premature increment will be admissible in such cases of promotion.

These orders will be effective from the date of its issuance.

Yours faithfully,

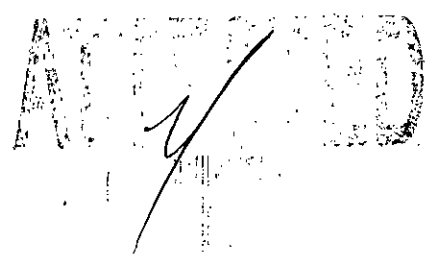

(RAZAULLAH KHAN)
Addl: Secretary (Regulation)

Endst: No. FD (SOSR-1) 2-123 /2014

Dated 21st Feb, 2014

Copy for information & necessary action to the:-

1. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
2. All the District Comptroller of Accounts in Khyber Pakhtunkhwa.
3. The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.



-22-

-2-

Endst: No. & Date Even

Copy for information is forwarded to:-

1. The Section Officers / Budget Officers in Finance Department, Khyber Pakhtunkhwa, Peshawar.
The Private Secretary to Senior Minister for Finance, Khyber Pakhtunkhwa.
The Private Secretary to Secretary / P.As to Special Secretary / Additional Secretaries / Deputy Secretaries in Finance Deptt.

Section Officer (SR-1)

Saved in (Disk-D) Office Work - Notification Folder

"F" -23-

To

Worthy
The Director,
Budget & Accounts Cell, FEW Department.

Subject: REQUEST FOR GRANT OF PREMATURE INCREMENT ON PROMOTION WITHIN THE SAME SCALE

R/Sir,

I have the honour to submit that the Govt: of Khyber Pakhtunkhwa Finance Department (Regulation Wing) letter No. FD (SOSR-1)2-123/2014 dated 21.02.2014 along-with its enclosures, whereas one premature increment of the higher post on promotion within the same scale has been allowed to those employees, who promoted within the same scale vide **(Annex-I)**.

Sir, it is pertinent to mention here, that I had allowed **Selection Grade** as Senior Scale Stenographer from BPS-12 to BPS-15 w.e.f. 09.09.1999 vide Govt: of NWFP, Forestry, Fisheries & Wildlife Department Order No.SO(G/A) FFWD/I499/2001 dated 24.11.2001 at **(Annex-II)**, Later on, **promoted in the same scale to BPS-15** vide Order No.SO(Estt)/Envt/I-3/2K5/149-54 dated 29.01.2008 vide **(Annex-III)**.

It is, therefore requested that I may kindly be allowed one premature increment w.e.f. 21.02.2014 in light of the above orders, please.

Thanks sir, -

Yours Obediently

Dated: 18.02.2019

(Signature)
(Syed Wajid Ali Shah)
PA/SSS (BPS-16) 18/2/19

On file.
18/2/19

PAO. Pd. put in on file.

ATTACHED

(Signature)
18/2/19



"9" -24-

GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE
DEPARTMENT

No.B&A/GAD/P-File/ 5002
Dated Peshawar the 13 /04.2021

To,

The Secretary to
Government of Khyber Pakhtunkhwa,
Finance Department Peshawar.

Subject:- **REQUEST FOR GRANT OF PRE-MATURE INCREMENT ON
PROMOTION WITHIN THE SAME SCALE.**

I am directed to refer to the application of Syed Wajid Ali Shah Senior Scale Stenographer (BPS-16) of this office dated 11/03/2021 on the subject noted above, (copy enclosed).

Syed Wajid Ali Shah Junior Scale Stenographer (BPS-12), was allowed Selection Grade (BPS-15) w.e.f 09-09-1999 (copy enclosed), later on, he was promoted in the same scale from Junior Scale Stenographer/Selection Grade (BPS-15) to Senior Scale Stenographer (BPS-15) on 29/01/2008 and allowed one advance increment **as next stage** (copy enclosed). However, a pre-mature increment was not allowed to him up till now.

Syed Wajid Ali Shah, Senior Scale Stenographer (BPS-15) has requested for allowing a Pre-mature increment being same scale promotion in light of Government of Khyber Pakhtunkhwa Finance Department (Regulation Wing) letter No.FD/(SOSR-I)2-123//2014 dated 21/2/2014 alongwith its enclosures (copies enclosed).

It is requested that this office may kindly be advised as to whether the benefit of pre-mature increment can be allowed to him w.e.f. 21.02.2014 on the said promotion case or otherwise.

An early action is requested please.

BUDGET & ACCOUNTS OFFICER

Endst: No.B&A/GAD/P-File/ 5003

Dated Peshawar the 13 /04.2021

Copy forwarded for information to Syed Wajid Ali Shah S/Scale Stenographer of the office of Director B&A FE&W Department Khyber Pakhtunkhwa Peshawar for information.

ATTESTED

BUDGET & ACCOUNTS OFFICE



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

-25-

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

[facebook.com/GoKPFd](https://www.facebook.com/GoKPFd)

twitter.com/GoKPFd

NO. FD (SOSR-1) 2-123/2021(S.Wajid Ali Shah)

Dated Peshawar the: 23-04-2021

Letter/Doc received in
Director B&A, F&W Deptt:
To:
Date: 29-04-2021
Time: 10:07
Diary No: 2351

The Budget & Accounts Officer,
Forestry, Environment & Wildlife Department,
Peshawar.

3023
28-4-2021

Subject: - **REQUEST FOR GRANT OF PREMATURE INCREMENT ON PROMOTION WITHIN THE SAME SCALE.**

Please refer to your letter No.B&A/GAD/P-File/5002 dated 13-04-2021 on the subject noted above and state that the official concerned was promoted within the same scale on 29-01-2008 and accordingly he was granted one advance increment as next stage as per his entitlement at that time.

2. Moreover, premature increment is not admissible to him on the ground that his promotion had taken place prior to issuance / effectiveness of Finance Department's policy letter No.FD (SOSR-1)2-123/2014 dated 21-02-2014.

(REHMAT KHAN)
SECTION OFFICER (SR-1)

ATTESTED

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

_____ No /2024

Syed Wajid Ali Shah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt of KPK

(RESPONDENT)
(DEFENDANT)

I/We Syed Wajid Ali Shah

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. _____ / _____ /202


CLIENT

ACCEPTED


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT


WALEED ADNAN


UMAR FAROOQ MOHMAND

&


MAHMOOD JAN
ADVOCATES

OFFICE:

Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)