

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1431/2019

Date of institution 28.10.2019

Niaz Badshah, Assistant Engineer/Sub-Divisional Officer in Irrigation
Department Khyber Pakhtunkhwa.

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and six
others.

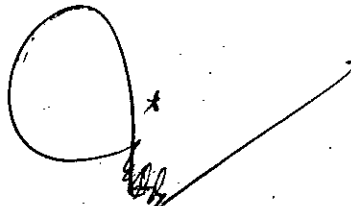
ORDER
28.04.2022

Appellant namely Niaz Badshah in person present. Mr.
Muhammad Rasheed, District Attorney for the respondents present.


Appellant stated at the bar that he has been granted right of
promotion by the Government in light of Notification bearing
Endorsement No. SO(E)/IRRI/23-5/73/Vol-VI dated Peshawar the
24th August, 2021, therefore, he wants to withdraw the instant
appeal. Copy of notification is placed on file. In this respect, written
endorsement of the appellant obtained at margin of order sheet.

In view of the above, the appeal in hand stands dismissed
withdrawn. Parties are left to bear their own costs. File be consigned
to the record room.

ANNOUNCED
28.04.2022



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



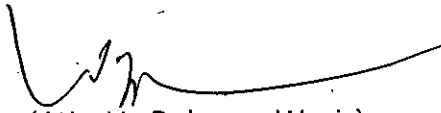
(SALAH-UD-DIN)
MEMBER (JUDICIAL)


*9 (Niaz Badshah) to Saeed Badshah
with draw the present appeal, as the Govt.
granted me the right of promotion vide Notification
No. SO(E)/IRRI/23-5/73/Vol-VI dated 24/8/21 & attached
copy of notification.*

2.12.2021

Appellant in person present. Mr. Kabirullah Khattak, Addl. AC
for respondents present.

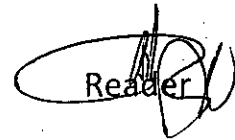
Appellant stated at the bar that two other identical nature
cases of different appellants are fixed for 12.01.2022 and requests
for fixation of this appeal alongwith them on the said date. Request
accorded. To come up for arguments before the D.B on
12.01.2022.


(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman

12.01.2022

Due to non-availability of the concerned DB, the case is
adjourned to 28.04.2022 for the same before D.B.


Reader

01.06.2021

None for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Imad Saleem, Section Officer for the appellant present.

The departmental representative states that the Administrative Secretary of the Department was the Chairman of S.S.R.C. In present case, the respondent No. 2 being administrative Secretary of the department has already submitted his reply. As far as the reply of respondent No. 7 is concerned, the Public Services Selection Board is an un-existing body. If this is misconceived from the Provincial Selection Board, even then it is not a proper party because such Board becomes relevant when it is assigned the working papers by the department for purpose. Therefore, there is no need to wait for reply of respondents No. 6 & 7. Appeal is assigned to D.B for arguments on 07.10.2021.




Chairman


07.10.2021

Junior of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Junior of learned counsel for the appellant seeks adjournment on the ground that senior learned counsel is not available. Granted. To come up for arguments on 22.12.2022 before the D.B.



(Mian Muhammad)
Member(E)



Chairman

01.02.2021

Appellant in person and Addl. AG alongwith Arab Gul, Assistant for the respondents present.

Representative of the respondents requests for time to furnish reply/comments. Adjourned to 31.03.2021 on which date the requisite reply/comments shall positively be furnished.


Chairman

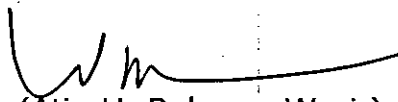
31.03.2021

Appellant in person present.

Addl: AG alongwith Mr. Anwar, ASI (Legal) for respondents present.

Written reply/comments on behalf of respondents not submitted. Learned AAG seeks time for submission of written reply/comments. Granted.

Adjourned to 01.06.2021 before S.B.


(Atiq Ur Rehman Wazir)
Member(E)

15.09.2020

Counsel for the appellant present.

Requests for further time to prepare the brief regarding jurisdiction of this Tribunal in light of Section 9 of the Khyber Pakhtunkhwa Service Tribunals Act, 1974 and other relevant provisions.

Adjourned to 18.11.2020 before S.B.


Chairman

18.11.2020

Counsel for the appellant present.

It is argued that the appellant initially preferred Writ Petition No. 2161-P of 2018 before the Hon'ble Peshawar High Court, Peshawar which was decided on 19.06.2019. The Hon'ble Court was pleased to, inter-alia, record in the judgment that every civil servant had the preferential right to ask for promotion channel and service structure. For that he is supposed to approach the departmental hierarchy for formulation of promotion policy and service structure and thereafter the service Tribunal. In the wake of judgment the appellant preferred departmental representation on 01.07.2019 which was not respondent to at all, hence the appeal in hand.

Subject to all just exceptions regarding competence of appeal it is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 01.02.2021 before S.B.


Chairman

Appellant Deposited
Security & Process Fee ✓
7/8/11/2020

26.02.2019

Appellant with counsel present.

Learned counsel for the appellant was confronted with the issue that whether this Tribunal has got the jurisdiction to issue directions to the respondents for amendment in the appointment and promotion criteria as prayed by the appellant, in view of judgment of august Supreme Court of Pakistan reported in 2015 SCMR page 269. Learned counsel for the appellant seeks adjournment to further prepare the brief. Adjourn. To come up for preliminary hearing on 16.04.2020 before S.B



Member

16.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 14.07.2020 for the same. To come up for the same as before S.B.



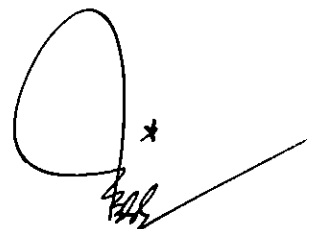
Reader

14.07.2020

Appellant in person respondents present.

Formal requests for adjournment as his learned counsel was busy before the Peshawar High Court, Peshawar in other cases.

Adjourned to 15.09.2020 before S.B.



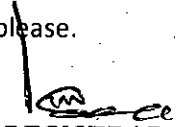

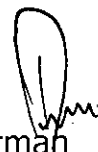

(Mian Muhammad)
Member(E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1431/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/10/2019	<p>The appeal of Mr. Niaz Badshah presented today by Mian Afrasiab Gul Kakakhel Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 28/10/19</p>
2-	30/10/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/12/19</u></p> <p> CHAIRMAN</p>
	09.12.2019	<p>Appellant present in person.</p> <p>Requests for adjournment due to general strike of the Bar today. Adjourned to 14.01.2020 for preliminary hearing before S.B.</p> <p> Chairman</p>
	14.01.2020	<p>Appellant present in person.</p> <p>Requests for adjournment due to general strike of the Bar. Adjourned to 26.02.2020 before S.B.</p> <p> Chairman</p>

P-2

**BEFORE THE HONOURABLE CHAIRMAN
SERVICE TRIBUNAL, KP
PESHAWAR**

In Re: Service Appeal No. 1431 /2019

Niaz Badshah *Versus* **Government of KPK and others**

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Mian Afrasiab Gul Kakakhel

MAK

Law offices

Liberty Mall, University Road, Peshawar

Mobile: 0333 9215562

Email: alrasyab.advocate@gmail.com

①

**BEFORE THE HONOURABLE CHAIRMAN
SERVICE TRIBUNAL, KP
PESHAWAR**

In Re: Service Appeal No. 1431 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1516

Dated 28-10-2019

Niaz Badshah

Assistant Engineer/Sub Divisional Officer in Irrigation Department Khyber Pakhtunkhwa

..... *Appellant*

Versus

- ✓ 1. **Government of KPK**
Through chief secretary
- ✓ 2. **Secretary Irrigation department Civil Secretariat, Peshawar**
- ✓ 3. **Secretary Finance Department KP, Civil Secretariat, Peshawar**
- ✓ 4. **Secretary Establishment Department KP, Civil Secretariat,
Peshawar**
- ✓ 5. **Secretary Law Department KP, Civil Secretariat, Peshawar**
6. **Chairman SSRC (Standing Services Rule Committee, Irrigation
Department).**
7. **Chairman Public Services Selection Board, KP**

..... *Respondents*

Filed to-day
Registrar
28/10/19

APPEAL UNDER SECTION 04 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974,
WHEREBY DEPARTMENTAL APPEAL /APPLICATION
OF THE APPELLANT WAS NOT REPLIED/ ANSWERED
WITHIN THE PRESCRIBE LIMIT.

Prayer: On acceptance of this appeal the
Honourable Tribunal may kindly direct the
following:

- I. Direct the Respondents to make necessary amendments in the APT (Appointment and Promotion and Transfer) rules 1989 by creating 20% quota for promotion of B Tech (Hon) Graduates against the post of BPS-18 on the analogy of sister provinces and Other Department.
- II. Direct the Respondents to consider appellant's qualification for promotion to the next scale with all back benefits.
- III. Direct the respondents to consider the seniority of appellant from initial appointment to the next higher scale B. P. S. 18.

Respectfully Sheweth,

Appellant humbly submits as under;

1. That Appellant is a respectable citizen of Pakistan and is entitled to all the rights enshrined in the Constitution.
2. That the Respondents are the appointing authority in the irrigation department, as well as promoting authority to BPS 18 and upward.
3. That the appellant is working as assistant Engineer/Sub Divisional Officer in irrigation department Khyber Pakhtunkhwa on the basis of B. Tech (Honrs) Degree from a recognized University of Engineering & Technology, dully verified by Pakistan Higher Education Commission Islamabad and Foreign Office.

Copy of B. Tech (Honrs) Degree at Annex-A

4. That it is also pertinent to mention here that the Government of Khyber Pakhtunkhwa Irrigation Department *vide* Notification No. SO(E) IRR;/23-5/73 dated: 17.02.2011 did not consider the B. Tech (Honrs) degree holder for BPS 17 available on serial No.4, Column No. 5, but later on the above notification was amended by the Government of Khyber Pakhtunkhwa Irrigation Department *vide* Notification No. SOE/IRRI/23-5/2010-11 dated: 25.06.2012 and considered the B. Tech (Honrs) degree holder for BPS 17.

Copy of *vide* Notification No. SO(E) IRR;/23-5/73 dated: 17.02.2011 is at annex-B

Copy of Notification No. SOE/IRRI/23-5/2010-11 dated: 25.06.2012 at annex-C

5. That the aforementioned notification (Annexure-C) was challenged by Mohammad Javid and others Diploma Holders Sub Engineers in their service appeal before the Khyber Pakhtunkhwa Service Tribunal. The Khyber Pakhtunkhwa Service Tribunal recommended the matter for reconsideration, to Government of Irrigation Department Khyber Pakhtunkhwa *vide* its judgment order date 26.02.2014

Copy of judgment order date 26.02.2014 at annex-D

6. That the Irrigation Department and private respondent including the appellant feeling aggrieved from the impugned order and judgment dated: 26.02.2014 of Service tribunal Khyber Pakhtunkhwa, filed appeals No. 795 -805 of 2014 before the worthy Supreme court of Pakistan to restore the quota of B. Tech (Honrs) graduate Sub Engineers/Sub Divisional Officer and the same was accepted *vide* its order and judgment date

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24.11.2014 reported in S.C.M.R 2015 P/269 title Chief Secretary Khyber Pakhtunkhwa and others V/S Mohammad Javid and Others.

Copy of the order and judgment dated: 24.11.2014 at

Annex-E

7. That private Respondents filed Review petition before the august Supreme Court of Pakistan, which was turn down *vide* order and judgment dated 12.01.2015.

Copy of order and judgment dated: 12.01.2015 at

annex-F

8. That since the judgment of the Supreme Court of Pakistan has got finality and its adherence is legal obligation upon subordinate Courts including authorities Under Article 187, read with Article 189 of the Constitution of the Islamic Republic of Pakistan 1973.
9. That after verdict of Supreme court of Pakistan *vides* Orders and Judgments dated: 24.11.2014 & 12.01.2015 in CPLA & Review Petition, the appellant was waiting for amendments in the rules for further promotion to the next higher Scale of BPS-18 and above, but the appointment promotion and transfer rules, 1989 Khyber Pakhtunkhwa as applicable in Irrigation Department are not amended up-till now, according to the verdict of the august Supreme Court of Pakistan.
10. That present appellant along with others approached the august high court Peshawar *vide* Writ petition No.2161/P 2018 for redressal of grievances.

Copy of the writ petition No.2161/P 2018 at annexure-

G

11. That august Peshawar High Court Peshawar dismissed the writ petition No. 2161/P, 2018 dated 19.06.2019 on the ground of maintainability under Art: 212 (2) read with service Tribunal Act 1974, and avowed that it is a matter of terms and condition of service, therefore appropriate forum is the service tribunal of Khyber Pakhtunkhwa.

**Copy of order and judgment in WP No. 2161-P/2018
dated: 19.06.2019 at annexure- H**

12. That as per the directions of the honourable Peshawar High Court, Peshawar appellant filed departmental representation before the respondent No. 1 but the same was not answered/replied within the prescribed limit hence.

Copy of departmental appeal at annex-I

13. That feeling aggrieved from the act of respondents, the appellant had no other proper forum to approach hence this appeal on the following grounds inter-alia;

Grounds:-

- A. That the impugned action is violative of law and facts, refusal of respondents is to be based not only on relevant law and rules but also to be based on some tangible material which could be lawfully taken note of. It is the duty of competent Authority to consider all the eligible candidates while putting them in juxtaposition, to find out the meritorious amongst them.
- B. That authority is to be exercised according to rational reasons which means that there be finding of primary facts based on good evidence, decisions about facts be made for reasons which serve

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the purpose of statute in an intelligent and reasonable manner. Actions which do not meet these threshold requirements are considered arbitrary and mis-use of power.

- C. That the respondents have refused to Appellant's applications in order to appoint their blue eyed at the cost of Appellant's right, knowing well all vacancies by that time would be filled leaving no room for consideration the promotion of Appellant.
- D. That the Irrigation department is a Department of Civil Engineers to the exception of a few posts of the Mechanical Engineer. Both the disciplines are altogether different, except to the common of Pakistan study and Islamic Education, but most of the Mechanical Engineers are working over the posts of civil Engineers. They perform Duties from Sub Engineer (Civil) to the level of Superintendent Engineer in the irrigation department and in past even some of them were Chief Engineer. Ice on the cake that some officers who are neither civil Engineers nor Mechanical Engineers but still elevated at higher grads.
- E. That B-Tech (Honrs) degree syllabus which is almost the same as that of B. Sc. Engineering Civil and 95% courses Books and their course contents are common with the B. Sc. Engineering civil. Both the degrees are issue from the same either the curriculum of B. Tech (Honrs) & B. Sc. Civil Engineering.

Copy of Syllabus of B. Tech and B. Sc. Engineering
at annex-J

- F. That against the natural justice where Mechanical Engineering Degree is acceptable to respondents while B. Tech (Honrs) degree is not even from the same recognized university, there is a clear discrimination and against the spirit of Article 4 and 25 of the constitution of Pakistan 1973.

- G. That P.E.C is a subordinate autonomous body of Higher Education commission of Pakistan and Higher Education commission of Pakistan recognized B. Tech (Honrs) degrees at par with B. E/B. Sc Engineering Degrees for the purpose of pay grade and promotion *vide* its notification No. 8-36/HEC/A&A/20, dated 21.05.2007.

Copy of notification No. 8-36/HEC/A&A/20, dated 21.05.2007 at annex-K

- H. That Higher Education Commission has constituted N.T.C Pakistan also a subordinate entity, Which recognizes and deal with matter of Engineering Technologist, the chairman N. T. C. of Pakistan has also recognized the B. Tech (Honrs) degree *vide* letter No. 786/78/C&W dated: 17.11.2016, and the appellant is also registered with N. T. C. Pakistan as professional Engineering Technologist.

Copy of letter No. 786/78/C&W dated: 17.11.2016 at annex-L

Copy of appellant registration with N. T. C. at annex-M

- I. That P.E.C. Act 1976 is not applicable on government department there is nothing in the act to say that it is applicable on government of Pakistan or provincial departments, but it is an autonomous body to deal with the affairs of Engineers only.
- J. That Government servants are not in any way subordinate to the P.E.C. nor it has authority to impose its will on which government department has its own hierarchy, rules and

regulation, this question has been once for all settled by the worthy Supreme Court of Pakistan in PLD 1995 page 701.

- K. That B. Tech (Honr's) degree holders, get their degrees form recognize Universities accredited authorized by government of Pakistan.
- L. That B. Tech (Honrs) degree is awarded under Sidny accord, which has a worldwide recognition having profound practical capability of execution of all nature of work in the relevant field of Engineering and Technology.
- M. That it is astonishing that government of Pakistan has established Universities, institution which offer B. Tech (Honrs) courses, but there is no service structure for them.
- N. That if there is no service structure then why these Universities / institution offer such courses and wasting precious time and money of students. There is also burden on public exchequer, as public sector Universities / institutes also offer B. Tech (Honrs) courses, as per the curriculum of N.T.C. Pakistan.
- O. That act and omission of the government of denying further promotion to B. Tech (Honrs) holder, is violation of the fundamental rights, enshrined to the citizen of Pakistan under the constitution of the Islamic republic of Pakistan 1973 and is also discrimination by escaping its responsibilities trough granting a free hand to P. E. C. and strengthening their unlawful monopoly.
- P. That under the principles of equality before law and constitution all are equal in the eye of law and no one is above the law.

- Q. That promotion is the right of the civil servant, which cannot be denied to an individual or group of individuals, as explicitly mentioned in the judgment referred above.
- R. That those B .Tech (Honrs) degree holders are doing hectic efforts for their legitimate rights of promotion since 1973, but they got their rights through Court of law and are still aggrieved. Government servants, except in few department of federal/province, they have little recognition, for e.g. the IESCO (Islamabad Electricity Supply Company) and the Government of Khyber Pakhtunkhwa Local Government and Rural Development department Local Council Board *vide* Notification No. 34753/96/CEO/IESCO/HRM dated: 13.08.2012 and LG/LCB/ESTT:/2-5/2016 dated: 13.05.2016 respectively considered 10% and 20% quota for B. Tech degree holder in their respective department.

Copy of Notification No. 34753/96/CEO/IESCO/HRM dated: 13.08.2012 at Annex-N

Copy of Notification LG/LCB/ESTT:/2-5/2016 dated: 13.05.2016 at Annex-O

- S. That similarly B. Tech (Honrs) degree has been declared at par to B. Sc. Engineering after the judgment passed by the august Peshawar High Court Peshawar in Writ Petition No.328/2013 *vide* its judgments dated 25.4.2013

Copy of order and judgment in Writ Petition No.328/2013 *vide* its judgments dated 25.4.2013 at annex-P

- T. That all the P.E.C. registered Engineers who were working as Assistant / Sub Divisional officers are promoted to the next

higher grads BPS -18 but being in the promotion zone appellant is still deprived from the right of promotion.

- U. That the word cannot be construed only to one step of promotion that there is a complete monopoly of P.E.C. Engineers and all sphere of work department and they have created a lot of problem in the way of stepping up of B. Tech (Honrs) Degree holders which is unjust and unfair.
- V. That it is a universally acceptable law that no one shall be a judge in his own case, but in the case of B. Tech (Honrs) recognition and framing of rules or its amendment, the P. E. C. Engineers are the sole judges to amend or frame services rules for B. Tech (Honrs) degree holder, which is against the law, rules and settled principle of natural justice.
- W. That the impugned act is gross violation of the fundamental rights of the Appellant duly protected by the constitution of Islamic Republic of Pakistan.
- X. That further assistance shall be made at the time of arguments after due permission of the court.

Prayer: On acceptance of this appeal the Honourable Tribunal may kindly direct the following:

- I. *Direct the Respondents to make necessary amendments in the APT (Appointment and Promotion and Transfer) rules 1989 by creating 20% quota for promotion of B Tech (Hon) Graduates against the post of BPS-18 on*

11

the analogy of sister provinces and Other Department.

- II. Direct the Respondents to consider appellant's qualification for promotion to the next scale with all back benefits.
- III. Direct the respondents to consider the seniority of appellant from initial appointment to the next higher scale B. P. S. 18.

Appellant *Ijaz Gul Kakakhel*
Through *Ijaz Gul Kakakhel*

Mian Afrasiab Gul Kakakhel
AHC

Mian Ijaz Gul Kakakhel
MAK

Law offices
Liberty Mall, University Road, Peshawar
Mobile: 0333 9215562
Email: afrasyab.advocate@gmail.com

Chancellor



Registrar
Amir B. Loeel

Mian Atiq-ur-Rahman
Kakakhel
Advocate
HIGH COURT, PESHAWAR
Amir B. Loeel

In testimony whereof, this degree has been issued under authorized signatures and official seal of the University, on this fifteenth day of August 2011.

**Bachelor of Technology (Honours)
in Civil Technology**

This satisfactorily and completely fulfilled all requirements for the prescribed studies and the examinations of the University, and has, therefore, been admitted to the degree of

Niaz Bad Shah
This is to certify that

Kohat - Pakistan

Preston University

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Amir B. Loeel = A

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Rs. 500

HIGHER EDUCATION
COMMISSION
PAKISTAN

529596

OFFICE
OF THE
COMMISSIONER
OF
HIGHER EDUCATION
PAKISTAN

Signature



PRESTON UNIVERSITY



13

OFFICIAL TRANSCRIPT

Office of the Registrar:
Old Govt Degree College No 2, KDA, Kohat - Pakistan
Tel: (+92 922) 515081-4

471421

Study Campus: PESHAWAR, PAKISTAN

Name:	Niaz Bad Shah	Registration No:	17M2-209002
Program:	B-Tech (Hons)	Date of Birth:	January 30, 1965
Specialization:	Civil	Date of Registration:	August 03, 2009
Date of Issue:	August 02, 2011	Date of Completion:	July 30, 2011

	Credit Hours	Marks Obt.	Grade	Remarks
First Semester				
Industrial Training	15	92	A	
	Total	92	Sem GPA	4.0
Second Semester				
Industrial Training	15	93	A	
	Total	93	Sem GPA	4.0
Third Semester				
Industrial Training	15	94	A	
	Total	94	Sem GPA	4.0
Fourth Semester				
Applied Mathematics-I	3	81	B	
Water Supply and Sanitary Engineering	3	80	B	
Design of Concrete Structures	3	75	C	
Soil Mechanics	3	80	B	
	Total	316	Sem GPA	2.8
Fifth Semester				
Engineering Management	3	95	A	
Steel Structures	3	76	C	
Foundation Engineering	3	90	A	
Hydrology	3	85	B	
	Total	346	Sem GPA	3.3
Sixth Semester				
Project Management	3	86	B	
Tunnel Engineering	3	84	B	
Road Engineering	3	93	A	
Project	3	85	B	
	Total	348	Sem GPA	3.3
	Grand Total	1289	Cum GPA	3.3

Number of Courses Passed 12
 Number of Courses Exempted 0
 Number of Courses Required for Degree 12
 Program Completed in Spring 2011 - Qualified for Degree

This document is not valid without signature and official seal.

The University reserves the right to correct any error or omission made inadvertently in the Transcript.

Aw B. Baloch
Registrar

Degree Requirement: Bachelors Program: Cumulative GPA= 2.0 Masters Program : Cumulative GPA = 2.2
 Grade: A = 90-100%, B = 80-89%, C = 70-79%, D = 60-69%, F(Fail) = 0-59% T = Transfer Credit Granted, Each subject carries maximum 100 marks.
 Grade Points: A = 4.0, B = 3.0, C = 2.0, D = 1.0, F = 0.0

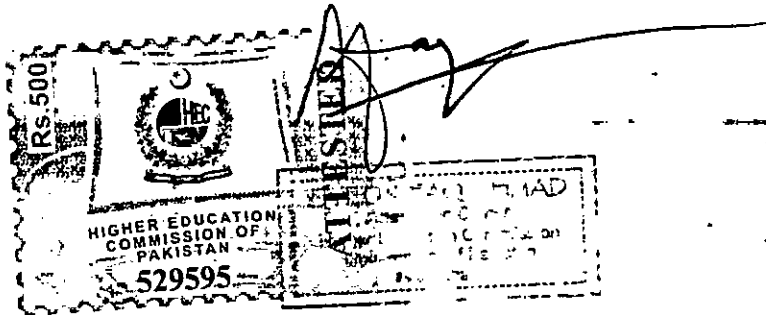
For verification of authenticity of Degree / Transcripts, employers / relevant agencies are requested to contact:
 Assistant Registrar (Verification): 85, Street 3, H-8/1, Islamabad, Pakistan Tel: +92-51-4430597, Fax: +92-51-4430648.

Prepared by:
D.P.O

Checked by:
Asstt. Registrar

Page 1 of 1

Mian Afrasiyab Gill
Kakakhel
Advocate
HIGH COURT PESHAWAR



(9)

(14)

Herston University

Kohat - Pakistan

This is to Certify That

Niaz Bad Shah

has satisfactorily and completely fulfilled all requirements for the prescribed studies and the examinations of the University, and has, therefore, been admitted to the Degree of

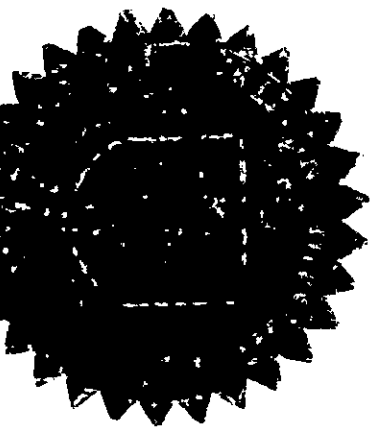
Bachelor of Technology (Bazs)
in **Civil Technology**

In testimony whereof, this Degree has been issued under authorized signatures and official seal of the University, on this fifteenth day of July 2009.

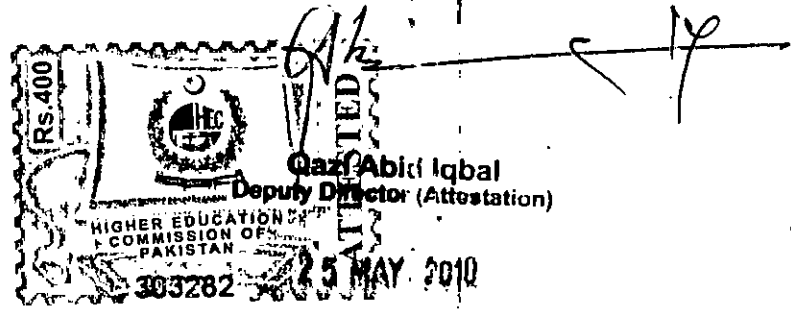
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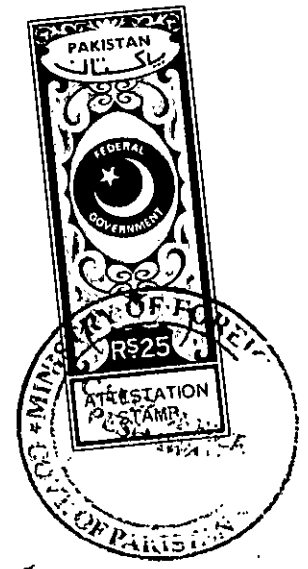
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Higher Education Commission
Government of Pakistan
Islamabad



Saeed Khan
ASSISTANT PROTOCOL OFFICER

14 FEB 2011

MINISTRY OF FOREIGN AFFAIRS
CAMP OFFICE - PESHAWAR

(15)



PRESTON UNIVERSITY

OFFICIAL TRANSCRIPT

Office of the Registrar:
Old Govt Degree College No 2, KDA, Kohat - Pakistan
Tel: (+92 922) 515081-4

352151

Name:	Niaz Bad Shah	Registration No:	17C2-208020
Program:	B-Tech (Pass)	Date of Birth:	January 30, 1965
Specialization:	Civil	Date of Registration:	June 25, 2009
Date of Issue:	July 02, 2009	Date of Completion:	June 30, 2009

	Credit Hours	Marks Obt.	Grade	Remarks
First Semester				
Industrial Training	15	92	A	
	Total	92	Sem GPA	4.0
Second Semester				
Industrial Training	15	94	A	
	Total	94	Sem GPA	4.0
Third Semester				
Industrial Training	15	97	A	
	Total	97	Sem GPA	4.0
Fourth Semester				
Foundation of Engineering-I	3	85	B	
Strength of Materials	3	80	B	
Surveying and Leveling	3	75	C	
Electrical Technology	3	76	C	
	Total	316	Sem GPA	2.5
Fifth Semester				
Foundation of Engineering-II	3	83	B	
Pakistan Studies	3	100	A	
Bridge Engineering	3	82	B	
Engineering Geology	3	86	B	
	Total	351	Sem GPA	3.3
Sixth Semester				
Islamic Studies	3	94	A	
Highway Engineering	3	91	A	
Concrete Structures	3	96	A	
Irrigation Engineering	3	90	A	
Project	3	90	A	
	Total	461	Sem GPA	4.0
	Grand Total	1411	Cum GPA	3.4

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Afkasiab Gul
Advocate
Kohat
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Number of Courses Passed 13
 Number of Courses Exempted 0
 Number of Courses Required for Degree 13

Program Completed in Spring 2009 - Qualified for Degree

Document is not valid without signature and official seal.

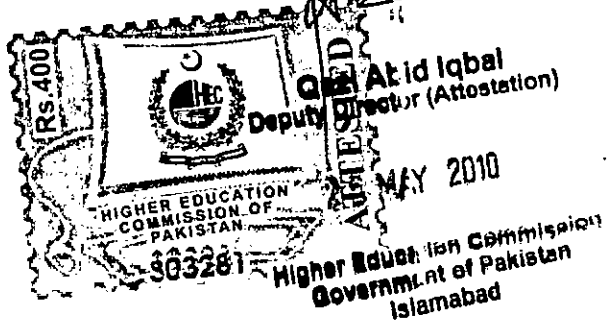
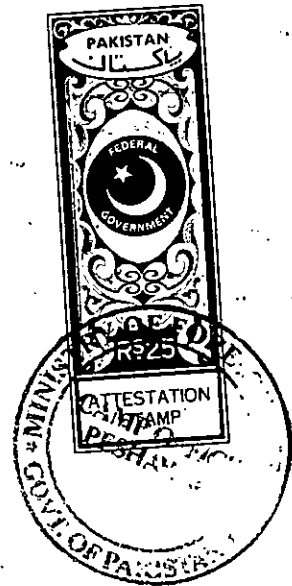
University reserves the right to correct any error or omission made inadvertently in the Transcript.

AwB Loch
Registrar

Requirement: Bachelors Program: Cumulative GPA= 2.0 Masters Program : Cumulative GPA = 2.2
 A = 90-100%, B = 80-89%, C = 70-79%, D = 60-69%, F(Fail) = 0-59% T = Transfer Credit Granted, Each subject carries maximum 100 marks.
 A = 4.0, B = 3.0, C = 2.0, D = 1.0, F = 0.0

Authenticity of Degree / Transcripts, employers / relevant agencies are requested to contact:
 (Verification): 85, Street 3, H-8/1, Islamabad, Pakistan Tel: +92-51-4430597, Fax: +92-51-4430648.

Checked by:
 Asstt. Registrar *[Signature]*



Safeer Khan
ASSISTANT PROTOCOL OFFICER

14 FEB 2011

MINISTRY OF FOREIGN AFFAIRS
CAMP OFFICE - PESHAWAR

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GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

NO.SO(E)IRR;/23-5/73
Dated Peshawar the 17th February, 2011

NOTIFICATION

NO.SO(E)IRR;/23-5/73:- In pursuance of the provisions contained in sub rule(2) of Rule-3 of the North-West Frontier Province Civil Servants (Appointment Promotion and Transfer) Rules, 1989 and in supersession of all previous rules and notifications, issued in this behalf, except Notification No. SO(E)IRR:/23-5/73 dated 20.12.2006, the Irrigation Department, in consultation with the Establishment Department and the Finance Department hereby lays down, the method of recruitment, qualification and other conditions specified in columns No. 3 to 5 of the Appendix (pages 1 to 5), to this Notification which shall be applicable to the posts in column No.2 of the Appendix.

Secretary to Government
of the Khyber Pakhtunkhwa Province
Irrigation Department.

Endst: NO.SO(E)IRR;/23-5/73 DATE 17th February, 2011

Copy is forwarded to the:-

1. All Administrative Secretaries to the Govt. of Khyber Pakhtunkhwa.
2. Secretary to Governor, Khyber Pakhtunkhwa.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. All commissioner in Khyber Pakhtunkhwa.
5. Registrar Peshawar High Court, Peshawar.
6. Accountant General, Khyber Pakhtunkhwa, Peshawar.
7. Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
8. Additional Accountant General (PR) Sub-Office Peshawar.
9. Chief Engineer (O&M), Irrigation Department, Peshawar.
10. Chief Engineer (Dev), Irrigation Department, Peshawar.
11. Director General, Small Dams Organization, Peshawar.
12. All District Coordination Officers in Khyber Pakhtunkhwa.
13. Secretary, Public Service Commission, Peshawar.
14. All superintending Engineers in irrigation Department
15. Canal Collector, Irrigation Department, Peshawar.
16. All Executive Engineers in Irrigation Department.
17. PS to Chief Secretary, Khyber Pakhtunkhwa , Peshawar.
18. PS to Secretary, Irrigation Department, Peshawar.
19. Manager Government Printing Press, Khyber pakhtunkhwa Peshawar. He is requested to supply 200 copies of the printed gazette for further distributions.
20. Office order/Master File.

(MISAL KHAN)
SECTION OFFICER(ESTABLISHMENT)

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Kakakhel Adv
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APPENDIX

S#	Nomenclature of Post	Qualification for appointment	Age Limit	Method of recruitment
1	2	3	4	5
PART-I-ENGINEERING STAFF				
1.	Chief Engineer/ Director General (BPS-20)			By selection, on merit from amongst the Senior Superintending Engineers and Directors with at least seventeen years service in BPS-17 and above, possessing Degree in B.E/BSc Engineering (Civil) from a recognized University.
2.	Superintending Engineer/Director (BPS-19)			By promotion, on the basis of seniority-cum-fitness, from amongst the Executive Engineers/Deputy Directors with at least twelve years service in BPS-17 and above.
3.	Executive Engineer/ Deputy Director (BPS-18)			By promotion, on the basis of seniority cum fitness, from amongst the Sub Divisional Officers, Assistant Engineers and Assistant Directors possessing Degree in B.E/BSc Engineering (Civil or Mechanical) from a recognized University, with at least five years service as such, and have passed the Professional or Revenue Examination under the prescribed rules.
4.	Assistant Engineer/Sub Divisional Officer/ Assistant Director (BPS-17)	BE/BSc Degree in Civil/Mechanical Engineering from a recognized University	21 to 32 years	<p>a. Sixty five percent by initial recruitment.</p> <p>b. ten percent by promotion, on the basis of seniority cum fitness, from amongst the Sub Engineer's who has acquired during service degree in Civil or Mechanical Engineering from a recognize university.</p> <p>c. five percent by promotion, on the basis of seniority cum fitness, from amongst the Sub Engineer's who joined service as degree holders in Civil/Mechanical Engineering and</p> <p>d. twenty percent by promotion, on the basis of seniority-cum-fitness from amongst the Sub Engineer's, who hold a diploma of Civil, Mechanical, Electrical or Auto Technology and have passed Departmental Grade A examination with ten years service as such.</p> <p>Note: - Provided that where candidate under Clause (b) & (c) above is not available for promotion, the vacancy shall be filled in by initial recruitment.</p>
5.	Sub Engineer (BPS-11)	Diploma of Associate Engineering in Civil/Mechanical/Auto/Electrical Technology from a recognized Institute.	10 to 30 years	<p>a. Eighty percent by initial recruitment; and</p> <p>b. twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Canal Inspectors, Work Takers, Gauge Readers, Surveyors and other establishments having Diploma of Associate Engineering in Civil, Mechanical, Electrical or Auto Technology from a recognized institute or Board of Technical Education of Government with at least ten years service, and have passed the departmental Grade B and Grade A examination.</p>

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page 1 of 5

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6.	Geologist (BPS-17)	M.Sc. Geology from a recognized University with 03 years experience in the relevant field.	18 to 32 years	By initial recruitment
PART-II-MINISTERIAL ESTABLISHMENT				
7	Administrative Officer/ Budget and Accounts Officer (BPS-16)			By promotion, on the basis of seniority-cum-fitness, from amongst the Superintendents of the Department having at least three years service.
8	Superintendent (BS-16)			By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants, Head Clerks and Senior Scale Stenographers with at least five years service as such. Note 1:- For the purpose of promotion, a joint seniority list of Assistants and Senior Scale Stenographers shall be maintained. If the date of appointment of both the officials is the same, then Assistant shall rank senior. Note 2. Promotion to the post of Superintendents in Regional Office cadre shall be considered from amongst the Assistants, Head Clerks and Senior Scale Stenographers of Regional Office cadre and that of Circle Office Cadre from the Assistants, Head Clerks and Senior Scale Stenographers of Circle Office Cadre.
9.	Senior Scale Stenographer (BPS-15)	a. Bachelor's Degree/ B.Com from a recognized University; and b. A speed of 100 words per minute in short hand in English and 40 words per minute in English typing.	18 to 30 years	a. Forty percent by initial recruitment; and b. sixty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Junior Scale Stenographers with at least three years service as such.
10	Assistants/Head Clerk (BPS-14)	Second Class Bachelor's Degree with Economics/ Statistics as one of the subject or B.Com, from a recognized University.	18 to 30 years	<u>In Regional Office Cadre</u> a. Twenty five percent by initial recruitment; and b. seventy five percent by promotion, on the basis of the seniority cum fitness, from amongst Accounts Clerks and Senior Clerks in Regional Office Cadre with at least 5 years service as such. <u>In Circle Office Cadre</u> By promotion, on the basis of seniority cum fitness, from among the Accounts Clerks and Senior Clerks with at least 5 years service as such, in the Circle where the vacancies occurs.

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(c) eight percent by promotion, on the basis of seniority-cum-fitness, from

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11	Junior Scale Stenographer (BPS-12)	(a) Intermediate or D.Com From a recognized Board; and c. A speed of 50 words per minute in Short hand in English and 35 words per minute in English typing with computer knowledge of Microsoft Words and Excel.	18 to 30 years	By Initial Recruitment
12	Accounts Clerk/ Senior Clerk (BPS-9)			By promotion, on the basis of seniority cum fitness, from among the Junior Clerks with atleast 5 years service in the respective regional or Circle cadre as such; Note. Promotion to the post of Accounts Clerk or Senior clerk in Regional Office cadre shall be considered from amongst the Junior Clerks of (Regional Office Cadre and that of Circle Office Cadre from amongst the Junior Clerks of Circle Office Cadre).
13	Junior Clerk (BPS-7)	(a) Secondary School Certificate from a recognized Board; and (b) A speed of 30 words per minute in English typing.	18 to 30 years	(a) Sixty Seven percent by initial recruitment; and (b) Thirty three percent by promotion, from amongst the Daltaries, Record Lifters, Naib Qasids, Chowkidars and other equivalent posts who have Secondary School Certificate and are under 45 years of age and have at least two years service as such in the respective Regional and Circle Office Cadre Note For the purpose of promotion, there shall be maintained a joint seniority list of Daltaries, Record Lifters, Naib Qasids, Chowkidars with reference to the date of regular appointment to the post or that of acquiring the Secondary school certificate which ever is later, provided that if two dates are the same, the person older in age or having longer service, whichever is more beneficial to him, shall rank senior.
PART-III COMPUTER ESTABLISHMENT				
14	Data Processing Supervisor (BPS-14)	Bachelor's Degree from a recognized University with 03 years Diploma in Computer Science, from recognize	18 to 30 years	(a). Twenty five percent by initial recruitment; and (b). Seventy five percent by promotion, on the basis of seniority cum fitness, from amongst the

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		insituto		Data Entry Operators and Key Punch Operators with five years service as such.
15	Data Entry Operator/Key Punch Operator (BPS-12).	Intermediate with one year Diploma in computer science from a recognize institute with speed of 10000 key depression per hour.	10 to 30 years	By initial recruitment
PART-IV REVENUE ESTABLISHMENT				
16	Canal Collector (BPS-18)			By promotion, on the basis of seniority cum fitness, from amongst the Deputy Collectors and Assistant Land Reclamation Officers with five years service as such.
17	Deputy Collector / Assistant Land Reclamation officer (BPS-17)			By promotion, on the basis of seniority-cum-fitness, from amongst Zilladars with atleast five years service as such.
18	Zilladar (BPS-14)	Bachelor's degree or equivalent qualification from a recognized University.	21 to 30 years	(a) Seventy percent by initial recruitment; and (b) Thirty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Head Vernacular Clerks with six years experience and Vernacular Clerk/Revenue Inspector with ten years service and having passed Secondary School Certificate Examination from recognized Board. Note: Promotion of Head Vernacular Clerks (BPS-7) to the post of Zilladar (BPS-14) shall be considered only in the circle where no post of Head Vernacular Clerk (BPS-10) exist
19	Revenue Inspector (BPS-10)	Intermediate or equivalent qualification from a recognized Board.	10 to 30 years	By initial recruitment.
20	Head Vernacular Clerk (BPS-10)			By promotion, on the basis of seniority-cum-fitness, from amongst the Vernacular clerks in the circle where the vacancies occur.
21	Vernacular Clerk (BPS-7)	Secondary School Certificate, from a recognized Board.		By promotion, on the basis of seniority-cum-fitness, from amongst the Palwaris having five years service as such in the Circle where the vacancies occur.
22	Palwari (BPS-5)	Secondary School Certificate from a recognized Board with one year Palwar training in Irrigation Department and have passed Irrigation Palwar Examination.	10 to 35 years	By initial recruitment.
PART-V DRAWING ESTABLISHMENT.				
23	Chief Draftsman (BPS-17)			By promotion, on the basis of seniority-cum-fitness, from amongst Circle Head Draftsman with three years service as such.

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24	Circle Head Draftsman (BPS-16)			By promotion, on the basis of seniority-cum-fitness, from amongst the Divisional Head Draftsman with three years service as such.
25	Divisional Head Draftsman (BPS-13)			By promotion, on the basis of seniority-cum-fitness, from amongst the Draftsman, who have passed the prescribed departmental examination for appointment as Head Draftsman with three years service as such.
26	Draftsman (BPS-10)	(a). Secondary School Certificate from a recognized Board; and (b). Two years Certificate course in Civil Draftsmanship from a recognized Institute/Board of Technical Education.	18 to 30 years.	a. Fifty percent by initial recruitment; b. Twenty five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Tracers having Certificate of Civil Draftsman course of two years duration from a recognized Board of Technical Education with three years service as such; and c. Twenty five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Tracers who have qualified the prescribed Departmental Examination of Draftsman and having three years service as such. Note: - If no suitable candidate is available for promotion against the quota at (b) then the vacancy shall be filled-in by the way as prescribed at (c) and Vice Versa.
27	Tracer (BPS-5)	(a) Secondary School Certificate from recognized Board; and (b) Tracer Course of at least six months duration from a recognized Institute or Board of Technical Education.	18 to 30 years	By Initial Recruitment.

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EXTRAORDINARY
GOVERNMENT



Annex - C
REGISTERED NO. PIII
GAZETTE
ANNEXURE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 25TH JUNE, 2012.

GOVERNMENT OF KHYBER PAKHTUNKHWA, IRRIGATION DEPARTMENT.

NOTIFICATION

Dated: 25th June, 2012.

No. SOE/IRRI/23-5/2010-11. — In pursuance of the provisions contained in sub-rule (2) of rule-3 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Irrigation Department in consultation with the Establishment Department and the Finance Department, hereby directs that in this Department's Notification No. SO(E)Irr:/23-5/73 dated 17.02.2011, the following amendments shall be made namely:-

AMENDMENTS

in the Appendix.

i. Against Serial No: 4, in column No. 5, for the existing entries, in clause (b), (c) and (d), the following shall be respectively substituted, namely:

(b) twelve percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers, having degree in Civil Engineering or Mechanical Engineering from a recognized university and have passed departmental grade B&A examination with five year service of such.

Note- For the purpose of Clause (b), a Joint seniority list of the Sub Engineers having Degree in Civil Engineering or Mechanical Engineering shall be maintained and their seniority is to be reckoned from the date of their 1st appointment as Sub Engineer.

(c) eight percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers, having Degree in B. Tech (Hons) and have passed departmental Grade B and A examination with five years service as such; and

Note- For the purpose of clause (c), a seniority list of Sub Engineers having Degree in B. Tech (Hons) shall be maintained and their seniority is to be reckoned from the date of their 1st appointment as Sub Engineer.

(d) fifteen percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers, who hold a Diploma of Associate Engineer in Civil, Mechanical, Electrical or Auto Technology and have passed departmental Grade B and A examination, within five years service as such.

Note- For the purpose of clause (d), a seniority list of Sub Engineers having Diploma of Associate Engineering in Civil Mechanical, Electrical or Auto Technology shall be maintained and their seniority is to be reckoned from the date of their 1st appointment as Sub Engineer.

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Note- The quota of clause (b), (c) and (d), above respectively shall be filled in by initial recruitment, if no suitable Sub Engineer is available for promotion;

- ii. against serial No. 5, in column No. 5, for the existing entries in clause (b), the following shall be substituted, namely:
- "(b) fifteen percent by promotion, on the basis of seniority-cum-fitness, from amongst the Canal Inspectors, Work Takers, Gauge Readers, Surveyors, having Diploma of Associate Engineering in Civil, Mechanical, Electrical or Auto Technology from a recognized Board of Technical Education, having passed the departmental Grade-B and Grade-A examination, with at-least seven years service as such; and
- (c) five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Canal Inspectors, Work Takers, Work Munshi, Surveyors, and work superintendent, having passed the departmental Grade-B examination with at-least ten years service as such;
- iii. Against serial No. 7, in column No. 5, for the words "three years" the words "one year" shall be substituted;
- iv. against serial No. 9, in column No. 3, for the existing entry the following shall be substituted, namely:
- a. Bachelor Degree or equivalent qualification from a recognized University, and
b. A speed of 80 words per minute in short hand in English and 40 words per minute in English typing; and
- v. against serial No. 13, in column No. 5, in clause (b), the words and figures "and are under 45 years of age" shall be deleted.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT.

Printed and published by the Manager,
Stary. & Ptg. Dept., Khyber Pakhtunkhwa, Pesh.

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EX-100

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Annex-D

24

SERVICE APPEAL NO. 1175/2012

Date of institution 25.10.2012
Date of Judgment 26.02.2014

Muhammad Javed Sub Engineer B-11 Assistant Director
(OPS) Small Dam Division, Peshawar.(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Irrigation Department Civil Secretariat, Peshawar.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department Civil Secretariat, Peshawar.
4. Chief Engineer (South) Irrigation Department, KPK, Peshawar
5. Niaz Badshah s/o Saeed Badshah, Sub-Engineer, Office of the Executive Engineer, Peshawar Canal Division, Warsak Road, Peshawar and 6 others.(Respondents)

Appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the Notification No. SOF/IRR/2-35-2010-11 dated 25.06.2012 whereby amendment has been introduced curtailing the promotion quota of the appellant to 15% against the existing quota of 20% thus seriously prejudicing and affecting the promotions rights of the appellant against which the departmental appeal dated 02.07.2012 was not replied.

M/S Ijaz Anwar and Mohammad Asif Yousafzai

Advocate

For appellant(s)

Mr. Muhammad Adeel Butt,

For Official respondents

Addl: Advocate General.

No.1 to 14

M/S Saadullah Khan Marwat, Ghulam Mohy-ud-Din Malik,

Ghulam Nabi & Sardar Shaukat Hayat,

For Private respondents

Advocate.

No. 5 to 11

Mr. Qalandar Ali Khan

Chairman

Mr. Muhammad Aamir Nazir

Member **Attested**

JUDGMENT

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QALANDAR ALI KHAN, CHAIRMAN: Since identical legal

and factual Questions have been raised in this appeal as well as in

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the connected appeals titled Mehmood Sultan-vs-Govt. of KPK through Chief Secretary etc (Appeal No. 1176/2012), Syed Muhammad Younas-vs-Govt. of KPK through Chief Secretary etc (Appeal No. 1177/2012), Muhammad Yaqoob-vs- Govt. of KPK through Chief Secretary etc (Appeal No. 1178/2012), Waqar Shah-vs-Govt. of KPK through Chief Secretary etc (Appeal No. 1179/2012), Sabir Hussain-vs- Govt. of KPK through Chief Secretary etc (Appeal No. 1180/2012), Riaz Muhammad -vs- Govt. of KPK through Chief Secretary etc (Appeal No. 1181/2012), Haroon-ur-Rashid-vs- Govt. of KPK through Chief Secretary etc (Appeal No. 1182/2012), Anayatullah-vs- Govt. of KPK through Chief Secretary etc (Appeal No. 1183/2012), and Farid Gul-vs- Govt. of KPK through Chief Secretary etc (Appeal No. 1184/2012), this single Judgment will also dispose of the said connected appeals.

2. The appellants are Sub-Engineers (B-11) in the Irrigation Department of Khyber Pakhtunkhwa, and are aggrieved of Notification No. SOF/IRR/2-3-5-2010-11 dated 25.06.2012 whereby amendments have been introduced thereby curtailing the promotion quota of the appellants to 15 % from existing quota of 20%. The appellants preferred departmental appeals against the impugned notification but to no avail, hence these appeals.

3. The appellants having joined the Irrigation Department as Sub-Engineers (BPS-11) while possessing the qualification of Diploma of Associate Engineering were enjoying 20% quota for promotion to the post of Assistant Engineer (BPS-17) ever- since the provision incorporated to this effect in the Recruitment Rules, 1979; and subsequently retained in Recruitment Rules notified vide notification dated 17.02.2011. The case of the appellants is that the Diploma holder Sub-Engineers were large in number while having limited quota in promotion, therefore, they were posted against the posts of Assistant Engineers (BPS-17) either on acting charge basis or in their own pay and scales despite having more than 20 years of service. They felt aggrieved when after years of waiting they reached the promotion zone, but their quota for promotion was abruptly curtailed from 20% to 15% vide the impugned notification, thereby seriously prejudicing and affecting prospects of their promotion. The

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appellants alleged that they submitted representations to the department prior to the promulgation of the rules and also preferred departmental appeals after the impugned amendments to the Detriment of their vested rights, but neither any heed was paid to their representations prior to the promulgation of the amended rules nor they received any response to their departmental appeals within the statutory period prescribed for the purpose, and, instead, the amended rules were given retrospective effect thereby adversely affecting the right of promotion already accrued to the appellants under the un-amended rules. In this connection, the appellants initially lodged writ petition and then lodged these appeals.

4. The appellants have assailed the amendments in the rules through the impugned notification, inter-alia, on the grounds that they have not been treated in accordance with law and while amending the rules, the strength of Sub-Engineers of different categories has not been kept in view, as the total strength of in-service Engineering Graduates was about 13 while they have been allowed 12% quota in promotion, Sub-Engineers holding qualification of B.Tech (Hons) have been allowed 8% quota as against their total strength of 10, while Diploma holder Sub-Engineers (appellants) were 130 in number but their quota has been curtailed from 20% to 15% that the Degree holders initially took the benefit of their B.Sc Engineers at the time of initial recruitment through Public Service Commission and then on the basis of the same degree they are followed promotion, thus availing double benefit on the same qualification, that sudden curtailing of quota for promotion at the time when the appellants had already reached the promotion zone amounted to denying vested rights of promotion to the appellants and snatching the rights already accrued to them, that amended rules are against the service structure of the Sub-Engineers as they tend to create cadre within cadre without hearing the stake holders, hence against the principle of natural justice, that promotion on the basis of only higher qualification under the amended rules amount to out of turn promotion, which has consistently been deprecated by the superior courts, and that the appellants were fit and eligible for promotion to the rank of Assistant Engineers BPS-17 and failure on the part of the respondent

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 HIGH COURT PESHAWAR

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departmental to follow the law and make promotions is seriously affecting rights of the appellants.

5. The appeals have been vehemently resisted by the official, as well as private respondents, who joined the proceedings later on. In their separate written replies. They contested case of the appellants against amendments in the promotion rules, mainly, on the grounds that some of the B.Tech (Hons) Degree holder Sub-Engineers were also serving the department for the last 24 years, while at the same time admitting that some of the aggrieved Civil Servants had been appointed in the year 1987. They claimed that 20% quota for promotion of Diploma holder Sub-Engineers was fixed in the Recruitment Rules, 1979 as well as in the rules of 1994, but in the rules of 1999 the quota was fixed at 15% and later on in the rules of 2011 the quota was re-fixed at 20% However, in the rules of 2012, the quota was re-fixed at 15% because B.Tech (Hons) Degree holder Sub-Engineers were merged in the quota of promotion for the post Assistant Engineer (BS_17) as quota of Diploma holders for promotion at the ratio of 20% had already been utilized/exhausted. They disputed claim of the appellants that they were serving the department for longer period on the ground that some of the B.Tech (Hons) Degree holders were also serving the department for the past 24 years of the BS-11. The respondents alleged that representations of the appellants have since been rejected. They maintained that the amended rules have legal sanctity and cannot be questioned under any law and that cases of the appellants for promotion will be dealt with in accordance with law on the basis of seniority-cum-fitness. The respondents also defended the amended rules on the ground that the same were for the betterment of all categories of employees.

6. Arguments of learned counsel for the appellants, learned AAG and learned counsel for private respondents heard, and record perused.

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7. The main thrust of the arguments of learned counsel for the appellants was that the act of the respondents-department to abruptly introduce amendment in the promotion Rules thereby curtailing quota of Diploma holder Engineers and creating at distinct quota of 8% though not commensurate with number of

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B.Tech(Hons) Degree holders, was tainted with malice, and neither the appellants were provided opportunity to defend their vested rights for promotion nor actual strength of different categories of Sub Engineers was taken into consideration at the time of amendments in the rules. It was alleged on behalf of the appellants that no sooner the private respondents acquired the qualification of B.Tech (Hons), they maneuvered to carve a distinct quota for themselves to secure out of turn promotion on the one hand and deprive the other eligible candidates for promotion at the time when they had reached the promotion zone after waiting since long, on the other. The appellants challenged the retrospective application of the amended rules on the ground that right of promotion had accrued to the appellants under the rules before amendments, therefore, the amended rules could not take away vested rights from the appellants.

8. The respondents, on the other hand, raised objection to the maintainability of appeals and jurisdiction of the Tribunal against rule making powers of the Government, and to entertain appeals for promotion to a higher grade/pay scale; and at the same time defended application of the amended rules to the case of the appellants on the grounds that, firstly, the Diploma holders had already secured promotions and had exhausted their quota under the rules before the impugned amendments and, secondly, the amendments were challenged by those Diploma holders who were not yet in the promotion zone, for instance, the appellant in the instant appeal stood at S.No.37 of the seniority list. It was urged on behalf of the respondents that the B.Tech (Hons) Degree was declared equivalent to B.Sc Engineering, hence need for creation of separate quota for B.Tech (Hons) Degree holders. The learned counsel for the respondents, on the basis of a number of judgments of the superior courts, contended that promotion was not a vested right and that the Government is always competent to prescribe or enhance educational qualification for the purpose of promotion against a particular post through amendment in relevant rules, which was not challengeable. The learned counsel further contended that promotion on acting charge basis could not be equated to regular promotion and did not confer any right of regular promotion.

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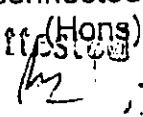
9. It would be appropriate to first deal with the objection of the respondents with regard to jurisdiction of the Service Tribunal and maintainability of appeals against amendment in rules and for the purpose of promotion. The question of jurisdiction of the Tribunal to entertain and adjudicate upon an appeal against rules/statute has been laid at rest by the august Supreme Court of Pakistan in the oft quoted judgment in the case of Muhammad Mubeen-us-Salam and others.....Appellants-versus-Federation of Pakistan through Secretary, Ministry of Defence and others.....Respondents, reported as PLD 2006 SC 602 . When confronted with the dictum laid down by the august Supreme Court of Pakistan in the said judgment, the respondents could not controvert the principle of law established by the above referred judgment. As regards appeals for promotion, there are no two opinions that appeals for promotion implicit or are not competent under section 4 (b) (i) of the NWFP (KPK) Service Tribunal Act, 1974; but these appeals have primarily been lodged against amendments in the rules, thereby, allegedly, seriously prejudicing and affecting the promotion right of the appellants; and relief of promotion has been sought so as to say as a "consequential relief".

10. The record would show that in order to examine and dispose of the appeals preferred by M/S Saifullah Khan and Amanullah Khan, Sub-Engineers on merit basis" the Government of Khyber Pakhtunkhwa, Irrigation Department, constituted a committee comprising Engr. Sahibzada Muhammad Shabir, Superintending Engineer, Peshawar Irrigation Circle, Peshawar, as Chairman and M/S Misal Khan, Section Officer (Establishment), Irrigation Department and Javed Ali, Admn Officer, office of Chief Engineer (South), Irrigation Department, as Members, vide Notification dated 6th October 2011, with following terms of reference (TORs):

To examine equivalency of B.Tech (Hons) with the of BE/B.Sc Engineering in light of the references quoted in the appeals of the Sub-Engineers.

To consult Irrigation Department, Govt. of Punjab, Lahore for obtaining legible copy of their notification of September, 2001 alongwith other connected documents, whereby B.Tech (Hons)

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Sub Engineers are considered for promotion to the posts of Assistant Engineers (BS-17).

To give specific recommendation as to whether fixation of quota for B.Tech (Hons) degree holder Sub Engineers on the analogy of B.Ed/B.SC degree holder Sub Engineers for promotion to the posts of Assistant Engineers (BS-17) is feasible for placing before the SSRC to amend the Service Recruitment Rules of Irrigation Department or otherwise.

In its report dated 19.11.201, it was clearly stated that the committee was constituted in order to examine appeals of M/S Saifullah Khan and Amanullah Khan, B.Tech (Hons) Degree holder Sub Engineers, requesting therein to consider B.Tech (Hons) degree at par with the B.E/B.Sc Engineering Degree and include the same in the quota reserved for graduate Sub Engineers for promotion to the rank of Assistant Engineer,. It may be observed here that contrary to the stated object for which the committee was constituted, and itself explained by the committee in its report, the committee recommended creation of 8% separate quota for B.Tech (Hons) instead of including B.Tech (Hons) in quota reserved for graduate Sub Engineers. Needless to say that *% separate quota for B.Tech (Hons) was created after curtailing the existing quota of Diploma holders from 20% to 15%. It appears from the report of the committee that the consideration of equivalency of B.Tech (Hons) with B.SC Engineering for the purpose of grades, pay and promotions weighed heavily with the committee for recommending creation of a separate quota for B.Tech (Hons); but it may be remarked here that equivalency of B.Tech (Hons) to B.Sc Engineering for the purposes of the grades, pay and promotions, has never remained a bone of contention in the light of communication of the Higher Education Commission. However, the question is that whether equivalency of B.Tech (Hons) to B.Sc Engineering, per se, could be a ground for creation of a separate quota for B.Tech (Hons)), without taking into consideration the entire Service structure of the department, rights accrued to members of the service under the existing rules, and concerns of those employees who were likely to be adversely affected by the proposed amendments. To say the least, the committee, as its report showed

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did not attend to any of the above necessary prerequisite for amendments in the existing rules.

11. The committee failed to take into consideration the existing strength of different categories and the quota reserved for their promotion. The record would show that initially 70% quota was reserved for initial recruitment, 10% for selection on merits with due regard to seniority from amongst Sub Engineers who hold a degree, and 20% for selection on merit with due regard to seniority from amongst officiating Assistant Engineers holding a diploma, vide notification dated 30th April 1979. In the year 2011, vide notification dated 17th February 2011, 65% quota was reserved for initial recruitment, 10% for promotion amongst Sub Engineers who acquired degree in Civil or Mechanical Engineering during service, 5% by promotion for Sub Engineers who joined service as degree holders in Civil/Mechanical Engineering, and 20% by promotion for diploma holder engineers who passed departmental Grade-A examination with 10 years' service as such. It was pointed out by the respondents that once before, in the rules of 1999, the quota for diploma holders was fixed at 15% but the fact remains that before the impugned amendments, the quota for diploma holders was re-fixed at 20% in the rules of 2011.

12. The main grievance of the appellants is that curtailing their quota from 20% to 15% and creating 8% separate quota for B.Tech (Hons) will place them in a disadvantageous position as against holders of degree of B.Tech (Hons). Who, according to the appellants, are 10 in number while there are around 130 diploma holders Sub Engineers in the department. In order to further augment their arguments, the appellants have brought on record documents showing holders of B.Tech (Hons) degree, who were initially diploma holders, to have acquired degree of B.Tech (Hons) afterwards during the year 2010 onwards, with the exception of Khurshid Ahmed, who acquired the Degree on 5.12.2005, but has joined the appellants in filing his own appeal against the impugned amendments. It has been vehemently stressed on behalf of the appellants that they joined service much earlier than the degree holders of B.Tech (Hons) and thus ranked senior to them and most

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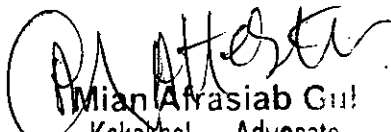
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of them reached the promotion zone when the promotion Rules were suddenly and unilaterally amended to their detriment, depriving them of their vested rights to promotion; and also to the unfair advantage of degree holders of B.Tech (Hons) who otherwise could not qualify for promotion being junior in the seniority list. They, allegedly, therefore, maneuvered to carve a separate quota for promotion for themselves, detrimental to the interest of other senior employees in the Department.

13. In the report, the committee concluded that "considering the re-adjustment of Sub-Engineers strength the committee recommends.....In other words, the committee was largely influenced by the re-adjustment of Sub-Engineers prior to the impugned amendments. The learned counsel for private respondents also urged that even otherwise the diploma holders had secured promotion and exhausted their erstwhile quota of 20% therefore, they had not cause of action to challenge amendments in the rules, which were not going to affect their promotion rights which they had availed under 20% quota. The argument is prima facie, far-fetched for the reason that the dispute is not with regard to who got how much share under the quota existing before the impugned amendments, rather the issue is whether amendments in the rules are in the interest of service and all the employees, and not to the detriment of any segment of the Civil Servants and to the unfair advantage of a particular class of government employees. The report of the committee speaks otherwise and reveals that no such considerations prevailed with the committee, which acted unilaterally, without affording a chance of putting forth their case to those employees who were likely to be affected by the impugned amendments.

14. Having said that, there can possibly be no cavil with the legal propositions that the Government has the authority to frame rules and also introduce amendments in the relevant rules to enhance qualification for a particular post; but the issue here is not that of amendments in the rules for enhancement of the qualification, rather dispute is with regard to unilaterally curtailing of quota of particular class of employees to their detriment. One can also make no bones

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about the fact that jurisdiction of the Service Tribunal is barred in cases of promotion; but primarily the appeals have been lodged against amendments introduced in the service rules, which according to the appellants, did not meet the ends of law and justice..

15. As a sequel to the foregoing discussion, on the partial acceptance of the appeals, the case of amendments in question is referred to the competent authority i.e. Secretary to Government of KPK, Irrigation Department (Respondent No.2) for reconsideration of the impugned amendments in the light of above discussion and observations made in the judgment for a just decision and further necessary action, under intimation to the Registrar of the Tribunal, within reasonable time. In order to avoid further legal complications and frustration of the spirit of this judgment. Promotions under the amended rules be put on hold in the meantime. There shall, however, be no order as to casts.

Sd.

Sd/- Qalandar Ali Khan, Chairman
Sd/- M.Aamir Nazir, Member.

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26.02.2014.

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ANNEXURE

Annex E

2015 S C M R 269

[Supreme Court of Pakistan]

Present: Anwar Zaheer Jamali, Iqbal Hameedur Rahman and Qazi Faez Isa, JJ

GOVERNMENT OF KHYBER PAKHTUNKHWA through Chief Secretary and others---
Appellants

Versus
MUHAMMAD JAVED and others---Respondents

Civil Appeals Nos.795 to 805 of 2014, decided on 24th November, 2014.

(On appeal from the judgment dated 26-2-2014 passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeals Nos.1175 to 1184 of 2012)

(a) Khyber Pakhtunkhwa Irrigation and Public Health Engineering Department (Recruitment and Appointment) Rules, 1979---

---Appendix---Khyber Pakhtunkhwa Service Tribunals Act (I of 1974), S. 3--- Promotion quota, reduction in---Provincial Government changing promotion criteria by prescribing higher education qualification--- Service Tribunal, jurisdiction of---Sub-Engineers (BPS-11) (respondents) were appointed in Irrigation Department on the basis of having a diploma in Associate Engineering and enjoyed 20% reserved quota for promotion to the post of Assistant Engineer (BPS-17) as provided in the Khyber Pakhtunkhwa Irrigation and Public Health Engineering Department (Recruitment and Appointment) Rules, 1979---Said Rules were amended and stipulated promotion quota of appellants reduced to 15% and a new category (for promotion) was created for those Sub-Engineers who possessed a degree in B.Tech. (Hons.) and who had passed Grade A and Grade B examinations with a minimum service of five years---Appellants contended that carving out of such new 'category' of degree holders had reduced the promotion prospects of diploma holders---Service Tribunal directed the Provincial Government to reconsider the amendments made to the Rules and in the meantime put on hold promotions under the amended Rules---Legality---Amendment made to the Rules in question was not with a view to accommodate specific individuals or for any other ulterior motive---Service Tribunal appeared to have been impressed by the fact that there were one hundred and thirty diploma holders whereas there were only thirteen graduates having B.Tech (Hons.) degrees, therefore, in the opinion of the Tribunal it was necessary to preserve the quota of the diploma holders---Concern of the Tribunal effectively meant that if there were many less qualified persons they should have greater prospects for advancement and those who had higher qualifications or who had improved their qualifications should not have an advantage---Such anxiety and concern of the Tribunal was misplaced---Amendment made to the Rules in question was a policy matter and the Government was empowered to reduce the promotion quota of Sub-Engineers holding diploma, and also to create a separate promotion quota for those holding B.Tech (Hons.) degree; the same was also not justiceable---Service Tribunal had clearly exceeded its jurisdiction in issuing directions to Provincial Government for reconsideration of the impugned amendment and by putting on hold the promotions under the amended Rules---Appeal was allowed accordingly and judgment of Service Tribunal was set aside.

Dr. Alyas Qadcer Tahir v. Secretary M/o Education 2014 SCMR 997 ref.

<http://www.pakistanlawsonline.com/LawOnline/law/content21.asp?Cases=2015S729>

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(b) Civil service---

---Promotion, criteria for---Educational qualification---Government changing promotion criteria by prescribing higher educational qualification---Effect---When talent, skill and capability was rewarded, it provided opportunity to ambitious employees, and if those amongst them who were better qualified received a differential focus it benefited the department and the people of the country, as all civil servants were there to serve the people---Similarly, if the bar to aspire to higher positions (i.e. promotion) was raised, it encouraged and motivated employees to take ownership of their careers and personal development---Moreover, when higher educational qualification and talent was appreciated it made for a more transparent system of advancement and may also help to retain talented individuals in an organization.

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

---S. 3---Constitution of Pakistan, Art. 212(1)(a)---Service Tribunal, jurisdiction of--- Civil service--- Promotion criteria--- Educational qualification---Government changing promotion criteria by prescribing higher educational qualification---Policy matter---Where the Government, as a policy matter, wanted to restrict promotion to those having degrees, or create another category of such persons, it was not ultra vires of any law nor was it unreasonable---Such matter fell within the exclusive domain of the Government, which, in the absence of demonstrable mala fides could, not be assailed.

Executive District Officer (Revenue) v. Ijaz Hussain and another 2012 PLC (C.S.) 917 and Fida Hussain v. The Secretary, Kashmir Affairs and Northern Affairs Division PLD 1995 SC 701 ref.

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

---S. 3---Constitution of Pakistan, Art. 212(1)(a)---Civil service---Promotion, right of---Promotion criteria---Justiciability---Neither promotion nor the criteria set out to aspire for promotion could be categorized as a 'right' that could be justiceable.

Zafar Iqbal v. Director, Secondary Education 2006 SCMR 1427 ref.

Mian Arshad Jan, Additional A.-G., Khyber Pakhtunkhwa for Appellants (in Civil Appeal No.795 of 2014).

Ghulam Mohy-ud-Din Malik, Advocate Supreme Court for Respondents Nos. 2 - 4 (in Civil Appeal No.795 of 2014).

Nemo for Respondents Nos.1, 5 - 8 (in Civil Appeal No.795 of 2014).

Ghulam Mohy-ud-Din Malik, Advocate Supreme Court for Appellants (in Civil Appeals Nos.796, 797, 799 - 801, 804 and 805 of 2014).

Mian Arshad Jan, Additional A.-G., Kyber Pakhtunkhwa for Respondents Nos.1 - 4 (in Civil Appeals Nos.796, 797, 799 - 801, 804 and 805 of 2014).

Ijaz Anwar, Advocate Supreme Court and M.S. Khattak, Advocate-on-Record for Respondent No.5 (in Civil Appeals Nos.796, 797, 799 - 801, 804 and 805 of 2014).

Nemo for Respondents Nos.6 to 9 (in Civil Appeals Nos.796, 797, 799 - 801, 804 and 805 of 2014).

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Ghulam Mohy-ud-Din Malik, Advocate Supreme Court for Appellants (in Civil Appeals Nos. 798, 802 and 803 of 2014).

Mian Arshad Jan, Additional A.-G., Khyber Pakhtunkhwa for Respondents Nos. 1 to 4 (in Civil Appeals Nos. 798, 802 and 803 of 2014).

Nemo for Respondents Nos. 5 to 9 (in Civil Appeals Nos. 798, 802 and 803 of 2014).

Date of hearing: 11th November, 2014.

JUDGMENT

QAZI FAEZ ISA, J.---These appeals arise out of a judgment dated 26th February, 2014 of the Hon'ble Khyber Pakhtunkhwa Service Tribunal ("Tribunal") whereby through a common judgment ten service appeals were disposed of in the following terms:--

(14) Having said that, there can possibly be no cavil with the legal propositions that the Government has the authority to frame rules and also introduce amendments in the relevant rules to enhance qualification for a particular post; but the issue here is not that of amendments in the rules for enhancement of the qualification, rather dispute is with regard to unilaterally curtailing of quota of a particular class of employees to their detriment. One can also make no bones about the fact that jurisdiction of the Service Tribunal is barred in cases of promotion; but primarily the appeals have been lodged against amendments introduced in the service rules, which, according to the appellants, did not meet the ends of law and justice.

(15) As a sequel to the foregoing discussion, on the partial acceptance of the appeals, the case of amendments in question is referred to the competent authority i.e. Secretary to Government of Khyber Pakhtunkhwa, Irrigation Department (respondent No. 2) for reconsideration of the impugned amendments in the light of above discussion and observations made in the judgment for a just decision and further necessary action, under intimation to the Registrar of the Tribunal, within reasonable time. In order to avoid further legal complications and frustration of the spirit of this judgment, promotions under the amended rules be put on hold in the meantime. There shall, however, be no order as to costs."

2. That in the appeals before the Tribunal it was contended that the appellants therein were working in the Irrigation Department as Sub-Engineers (BPS-11) and were appointed on the basis of having a diploma in Associate Engineering and enjoyed 20% reserved quota for promotion to the post of Assistant Engineer (BPS-17) as provided in the Khyber Pakhtunkhwa Irrigation and Public Health Engineering Department (Recruitment and Appointment) Rules, 1979 ("the Rules"), which were amended by reducing their stipulated quota as a new category was created for those Sub-Engineers who possessed a degree in B.Tech. (Hons.) and who had passed Grade A and Grade B examinations with a minimum service of five years. It is stated that carving out of this new 'category' of degree holders had reduced the promotion prospects of the appellants who were diploma holders.

3. That with regard to the post of Assistant Engineers, both in respect of initial recruitment and promotion, it would be appropriate to reproduce the applicable requirements mentioned in the Appendix of the Rules as it originally stood and as it was amended from time to time, as under:--

As originally stood vide Notification dated 30th April, 1979:

"(a) Seventy per cent by initial recruitment and

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- (b) Ten per cent by selection on merit with due regard to seniority from amongst sub-engineers of the Deptt: concerned in which the vacancy occurs, who hold a degree: and
- (c) Twenty per cent by selection on merit with due regard to seniority from amongst officiating Assistant Engineers of the vacancy occurs, who hold a diploma."

As amended vide Notification dated 27th February, 1999:

- "(a) Sixty five percent of the total posts by initial recruitment;
- (b) Ten percent of the total posts by promotion, on the basis of seniority-cum-fitness from amongst the Sub-Engineers possessing Diploma at the time of their induction into service but acquired degree in Engineering during service;
- (c) Ten percent of the total posts by Promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Engineers who joined service as Degree holders in Engineering; and
- (d) Fifteen percent of the total posts by selection on merit with due regard to seniority, from amongst the officiating Assistant Engineers/Senior Scale Sub-Engineers, the [sic] who hold a Diploma in Engineering and have passed Departmental Examination;

Provided that where a candidate under clause (b) above is not available, the vacancy shall be filled from amongst Diploma holders Sub-Engineer;

Provided further that where a candidate under clause (c) above is not available, the vacancy shall be filled by initial recruitment."

As further amended by Notification dated 17th February, 2011:

- "(a) Sixty five percent by initial recruitment.
- (b) ten percent by promotion, on the basis of seniority cum fitness, from amongst the Sub-Engineer's who has acquired during service degree in Civil or Mechanical Engineering from a recognize university.
- (c) five percent by promotion, on the basis of seniority cum fitness, from amongst the Sub-Engineer's who joined service as degree holders in Civil/Mechanical Engineering and
- (d) twenty percent by promotion, on the basis of seniority-cum-fitness from amongst the Sub-Engineer's, who hold a diploma of Civil, Mechanical, Electrical or Auto Technology and have passed Departmental Grade A examination with ten years service as such.

Note: Provided that where candidate under Clauses (b) and (c) above is not available for promotion, the vacancy shall be filled in by initial recruitment."

As finally amended by Notification dated 25th June, 2012:

- "(b) twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers, having degree in Civil Engineering or Mechanical Engineering from a recognized university and have passed departmental grade B&A examination with five year service of such.

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Judgement

Note:- For the purpose of Clause (b), a Joint seniority list of the Sub-Engineers having Degree in Civil Engineering or Mechanical Engineering shall be maintained and their seniority is to be reckoned from the date of their 1st appointment as Sub-Engineer.

(c) eight per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Engineers, having Degree in B.Tech. (Hons.) and have passed departmental Grade B and A examination with five years service as such; and

Note:- For the purpose of clause (c), a seniority list of Sub-Engineers having Degree in B.Tech. (Hons.) shall be maintained and their seniority is to be reckoned from the date of their 1st appointment as Sub-Engineer.

(d) fifteen per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Engineers, who hold a Diploma of Associate Engineer in Civil, Mechanical, Electrical or Auto Technology and have passed departmental Grade B and A examination, within five years service as such.

Note:- For the purpose of clause (d), a seniority list of Sub-Engineers having Diploma of Associate Engineering in Civil Mechanical, Electrical or Auto Technology shall be maintained and their seniority is to be reckoned from the date of their 1st appointment as Sub-Engineer.

Note:- The, quota of clauses (b), (c) and (d), above respectively shall be filled in by initial recruitment, if no suitable Sub-Engineer is available for promotion."

The grievance of the appellants before the Tribunal was that their promotion quota had been curtailed from 20% to 15% vide clause (d) of the Notification dated 25th June, 2012. They had further prayed that the Government be restrained from processing the promotion cases on the basis of such Notification and in particular of those who had obtained the B.Tech. (Hons.) degree.

4. Mr. Arshad Jan, Additional Advocate-General, Khyber Pakhtunkhwa, and Mr. Ghulam Mohy-ud-Din Malik, Advocate Supreme Court (on behalf of private appellants, who possessed B.Tech. (Hons.) degree) have assailed the impugned judgment on the following grounds:--

- (1) That the Hon'ble Tribunal had no jurisdiction as the Rules were amended by the Government and not by any 'departmental authority' and in this regard reliance was placed upon section 4 read with section 7 of the Khyber Pakhtunkhwa Service Tribunals Act, 1974;
- (2) That the amendment was made to ensure that the higher positions are held by those who were competent and possessed the requisite qualifications;
- (3) That the diploma holders could also obtain degree in B.Tech. (Hons.) and then they too could also avail of the benefit of clause (c) as lastly amended;
- (4) That the amendment made in the Rules was not person specific nor had any element of mala fide;
- (5) That promotion or reserving a certain quota for promotion cannot be claimed as a vested right; and
- (6) That the matter was within the domain of policy and beyond the jurisdiction of the Tribunal.

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Judgement

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Reliance was also placed upon the following precedents:--

Dr. Alyas Qadeer Tahir v. Secretary M/o Education (2014 SCMR 997)

Executive District Officer, (Revenue) v. Ijaz Hussain (2012 PLC (C.S.) 917)

Zafar Iqbal v. Director, Secondary Education (2006 SCMR 1427)

Fida Hussain v. The Secretary, Kashmir Affairs and Northern Affairs Division (PLD 1995 SC 701)

5. That Mr. Ijaz Anwar, learned counsel appearing for the respondents (appellants before the Service Tribunal), urged that the Tribunal had jurisdiction to decide the matter as the amendment to the Rules had affected their terms and conditions of service and in this regard placed reliance upon the cases of Muhammad Mübeen-us-Salam v. Federation of Pakistan (PLD 2006 SC 602) and I. A. Sharwani v. Government of Pakistan (1991 SCMR 1041).

He further stated that, at the time when the appellants before the Tribunal joined service the Rules prescribed a certain quota for promotion to the next higher grade of Assistant Engineer and such quota could not be reduced as it would adversely affect their prospects of advancement. It was lastly contended that there were a large number of diploma holder Sub-Engineers whereas only a few possessed B.Tech. (Hons.) degree.

6. That the appeal against the judgment of the Tribunal lies to this Court if it involves a substantial question of law of public importance (sub-article (3) of Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973) and if leave has been granted. In these cases leave was granted by this Court vide order dated 29th May, 2014, relevant portion whereof is reproduced hereunder:--

"Having heard the learned counsel for the petitioners in Civil Petitions Nos. 592 to 601 of 2014 and learned Advocate-General, Khyber Pakhtunkhwa in Civil Petition No. 230-P of 2014, leave to appeal is granted in all these petitions inter alia to consider whether the rules for promotion of Assistant Engineers (BS-17), Irrigation Department, could be subjected to judicial review before the Service Tribunal...."

The question whether the Tribunal can impinge upon the right of the Government to make rules stipulating the criteria for promotion, and having done so the Government cannot change the same, is undoubtedly a substantial question of law of public importance.

7. With the help of the learned counsel we have examined the Appendix to the Rules and we have not been able to detect that the amendment finally made thereto was with a view to accommodate specific individuals or for any other ulterior motive. We have also gone through the contents of the service appeals wherein no allegation of mala fide was levelled. Therefore, the only questions for our consideration are, firstly, whether the Hon'ble Tribunal exceeded its jurisdiction and, secondly, whether the quota of any class of employees (diploma holders herein) could not be reduced, and to create from amongst them a separate quota of degree holders who would also be eligible for promotion as Assistant Engineers.

8. The Tribunal appears to have been impressed that there were one hundred and thirty diploma holders whereas there were only thirteen graduates having B.Tech. (Hons.) degrees, therefore, in the opinion of the Hon'ble Tribunal it was necessary to preserve the quota of the diploma holders. The concern of the Tribunal effectively meant that if there are many less qualified persons they should have

<http://www.pakistanlawsite.com/LawOnline/law/content21.asp?Cases=2015S729>

6/1/2015

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Mian Afrasiab Gul
Kakkar Advocate
HIGH COURT PESHAWAR

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greater prospects for advancement and those who had higher qualifications or who had improved their Qualifications should not have an advantage. The anxiety of the Tribunal in this regard was misplaced. In the reported case of Dr. Alyas Qadeer Tahir v. Secretary M/o Education (2014 SCMR 997), it was held:-

"Its right to improve and update its service structure to keep pace with modern age which is indisputably the age of specialization cannot be restrained or restricted on the ground that at the time of appointment of one or a few civil servants, such qualification was not a requirement for promotion. Higher qualification or a more specialized qualification for a post in a higher scale is a need of the hour which has to be taken care of. The vires of validity of Rules or amendments therein attending to such aspects, cannot, therefore, be looked askance at. The more so when there is absolutely nothing in the Rules to show that they are either person specific or an off shoot of mala fides."

9. That where talent, skill and capability is rewarded it provides opportunity to ambitious employees and if those amongst them who are better qualified receive a differential focus it benefits the department and the people of Pakistan, as all civil servants are there to serve the people. Similarly, if the bar to aspire to higher positions is raised it encourages and motivates employees to take ownership of their careers and personal development. Moreover, when higher educational qualification and talent is appreciated it makes for a more transparent system of advancement and may also help to retain talented individuals in an organization.

10. That it was not a case of the appellants before the Tribunal that they were prevented from improving their qualifications, therefore, if the government, as a policy matter, wants to restrict promotion to those having degrees, or create another category of such persons it is not ultra vires of any law (even though no law was cited in this regard) nor is it unreasonable. The matter fell within the exclusive domain of the Government, which, in the absence of demonstrable mala fides could, not be assailed as held in the case of Executive District Officer (Revenue) v. Ijaz Hussain and another (2012 PLC (C.S.) 917), as under:-

"If the said power is exercised in a mala fide manner, it is the particular mala fide act which can be challenged and struck down."

"The framing of the recruitment policy and the rules thereunder, admittedly, fall in the executive domain. The Constitution of Islamic Republic of Pakistan is based on the well known principle of trichotomy of powers where legislature is vested with the function of law making, the executive with its enforcement and judiciary of interpreting the law. The Court can neither assume the role of a policy maker or that of a law maker."

Similarly, in the case of Fida Hussain v. The Secretary, Kashmir Affairs and Northern Affairs Division (PLD 1995 SC 701), it was held, that:-

"It is exclusively within the domain of the government to decide whether a particular qualification will be considered sufficient for promotion from a particular Grade to a higher Grade and it is also within the domain of the Government to change the above policy from time to time as nobody can claim any vested right in the policy."

11. That neither promotion nor the criteria set out to aspire for promotion can be categorized as a 'right' that could be justiceable. In this regard reference may be made to Zafar Iqbal v. Director, Secondary Education (2006 SCMR 1427), wherein we had held, that:-

"The Government is always empowered to change the promotion policy and the domain of the

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Advocate
HIGH COURT PESHAWAR

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Government to prescribe the qualification for a particular post through amendment in the relevant rules, is not challengeable. This is also a settled law that notwithstanding fulfillment of the requirement qualification and other conditions contained in the rules, the promotion cannot be claimed as a vested right."

12. The Tribunal had directed the Government, "for reconsideration of the impugned amendments" and further directed that, "promotions under the amended rules be put on hold in the meantime." The Hon'ble Tribunal had clearly exceeded its jurisdiction in issuing such directions.

13. In conclusion, since it was a policy matter the Government was empowered to reduce the said quota of diploma holder Sub-Engineers for promotion to the post of Assistant Engineers and also to create a separate quota of B.Tech. (Hons.) degree holders for promotion to the post of Assistant Engineers; the same was also not justiceable, and in directing the Government to reconsider the same and to hold in abeyance the promotions made in accordance with the Rules as finally amended the Tribunal exceeded its jurisdiction.

14. That we had allowed these appeals vide our short order dated 11th November, 2014 reproduced hereunder:--

"We have heard the arguments of the learned ASCs representing different parties in these connected appeals. For the reasons to be recorded separately, these appeals are allowed, the judgment dated 26-2-2014 is set aside and consequently the service appeals filed by the respondents before the Service Tribunal are dismissed."

The aforesaid are the reasons for doing so.

MWA/G-7/SC

Appeal allowed.

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Mian Afrasiab Gul
Kakakhel Advocate
HIGH COURT PESHAWAR

IN THE SUPREME COURT OF PAKISTAN
(REVIEW JURISDICTION)

Annex-F

PRESENT:

MR. JUSTICE IJAZ AHMED CHAUDHRY
MR. JUSTICE DOST MUHAMMAD KHAN
MR. JUSTICE QAZI FAEZ ISA

C.R.P. NOS. 495 TO 499 OF 2014 IN
CIVIL APPEAL NOS. 796, 800, 801, 804 & 805 OF 2014
(To review this Court's judgment dated 11.11.2014 passed in Civil Appeal Nos. 795 to 805/2014)

Muhammad Javed (In CRP 495/2014)
Waqar Shah (In CRP 496/2014)
Sabir Hussain (In CRP 497/2014)
Anayat Ullah (In CRP 498/2014)
Farid Gul (In CRP 499/2014)
... Petitioners

VERSUS

Government of KPK through Chief Secretary etc (In all cases)
... Respondents

For the Petitioners: Mr. Ijaz Anwar, ASC

For the Respondents: N.R.

Date of Hearing: 12.01.2015

ORDER

IJAZ AHMED CHAUDHRY, J.- Learned counsel for the petitioners has failed to point out any error apparent on the face of record in the judgment under review and instead tried to reargue the case, which cannot be allowed in review jurisdiction. These review petitions are dismissed.



Sd/- Ijaz Ahmed Chaudhry, J
Sd/- Dost Muhammad Khan, J
Sd/- Qazi Faez Isa, J

Certified to be True Copy

[Handwritten Signature]
29/1/15

Superintendent
Supreme Court of Pakistan
(Islamabad)

Islamabad, the
12th of January, 2015
Not Approved For Reporting
~~Kakakhel~~

22.1.15

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Mian Afrasiab Gul
Kakakhel Advocate
HIGH COURT PESHAWAR

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Annexure-1
②

BEFORE PESHAWAR HIGH COURT PESHAWAR

W.P No. 2161/P /2018

1. Niaz Badshah S/o Saeed Badshah SDO BPS-17 Irrigation Department posted at Mardan Irrigation Sub Division Mardan
2. Saifullah Khan S/o Abdullah Khan posted at drainage irrigation Sub Division Warsak Road Peshawar.
3. Amanullah Khan S/o Hamaish Gul SDO BPS-17 posted at Charsadda Irrigation Sub Division Charsadda.
4. Muhammad Zeeshan Zaheer s/o Jalat Khan Zaheer Sub Engineer BPS-12 posted at Civil Canal Sub Division Warask Road Peshawar

.....Petitioners

VERSUS

1. Govt of KPK through Chief Secretary Civil Secretariat Peshawar
2. Secretary Irrigation to the Govt of KPK Civil Secretariat Pesahwar
3. Secretary Establishment to Govt of KPK Civil Secretariat Peshawar
4. Secretary Law and Parliamentary Affairs KPK, Civil Secretariat Peshawar
5. Secretary Finance to Govt of KPK Civil Secretariat Peshawar

.....Respondents

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973

Respectfully Sheweth

1. That the petitioners No. 1 to 3 are Sub Divisional Officers / Assistant Engineers in BPS-17, serving in the irrigation Department while petitioner No 4 is Sub Engineer BPS-12 in the irrigation Department.

Attest
Mian Afras
Kakakhel
HIGH COURT PESHAWAR

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2. That petitioners are B Tech (Hons) Degree Holders which is equivalent to B.E / B.Sc Engineering duly attested and recognized by Higher Education Commission Islamabad.
3. That due to misunderstanding & ambiguity or misinterpretation of word, "Promotion" in the amended service Rules 2012, the petitioners have not been allocated any quota for their promotion to higher grade on the basis of their qualification, by the irrigation Department.
4. That the Provincial Government by amending 1989 Appointment and Promotion Rules Of Irrigation Department Of KPK in June 2012 creating 8 percent quota or appropriate ratio as per strength of SDOs/ XENs for the promotion of the B Tech (Hons) Degree Holders (Petitioners) for next higher grade BPS-17 as Sub Divisional Officers / Assistant Engineers, but unfortunately this ration is not been considered for further promotion to next higher grade BPS-18 & 19 etc. (Copy of Notification dated 25th June 2012 is annexed as annexure A at Page 11-17.)
5. That Muhammad Javed and Others from Diploma Holders cadre filed appeal before KPK Service Tribunal against the creation of promotion quota for the petitioners cadre, the Service Tribunal after hearing appeal remanded the matter to the Provincial Govt for reconsideration and redressal of the grievances of M Javed and Others appellant before Service Tribunal vide judgment and order dated 26.02.2014. (Judgment and Order of Service Tribunal is annexed as A/1 at Page 18-27)
6. That the provincial Government and petitioners feeling aggrieved, impugned the judgment and order of Learned Service Tribunal before the Apex Court through Appeal Nos. 795 to 805 of 2014. The Worthy Supreme Court of Pakistan accepted the appeal and set aside the judgment and order of Learned Service Tribunal and restored the quota meant for the petitioners through Judgment and Order dated 24-11-2014 reported in 2015 SCMR page 269 titled as Govt of KPK through Chief Secretary and Others Vs Muhammad Javed and Others, the relevant citation of the judgment reads as under:- Citation (b) head note

(b) Civil Service---

---Promotion, criteria for---Educational
 qualification---Government changing promotion

Mian Afrasiab Gul
 Mian Afrasiab Gul
 Kakakhel Advocate
 HIGH COURT PESHAWAR

criteria by prescribing higher educational qualification---Effect---When talent, skill and capability was rewarded, it provided opportunity to ambitious employees, and if those amongst them were better qualified received a differential focus it benefitted the department and the people of the country, as all Civil Servants were there to serve the people---Similarly, if the bar to aspire to higher positions (i.e. promotion) was raised, it encouraged and motivated employees to take ownership of their career and personal development---Moreover, when Higher Educational Qualification and talent was appreciated it made for a more transparent system of advancement and may also help to retain talented individuals in an organization.

(Copy of Judgment attached as annexure " B " at Page 28-36)

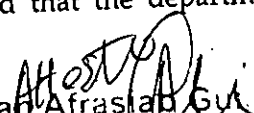
7. That consequent upon the decision of the Apex Court the quota created in the rules for the petitioners was restored and they were given the right to be promoted to grade BPS-17 and naturally upward.
8. That despite the long litigations and final decision of Apex Court which is binding u/a 187 r/w article 189 of the Constitution of Pakistan 1973, on all other courts in Pakistan and authorities performing their duties in the province within the limits and territories of Pakistan. It is interesting to note that the rules for promotion of the petitioners earlier framed by Govt of KPK and duly confirmed by the Apex Court in the judgment ibid have been restored by the Govt Respondents but provision for further promotion to the higher grade / position in the department is not being followed, consequently the posts available for promotion in the senior grade BPS-18 and above, they are being ignored for no good reason at all.
9. That the amendments introduced in the rules regarding promotion of the petitioners in BPS-17 & above are not being followed in letter and spirit in the light of judgment of Supreme Court of Pakistan because the true import of Judgment as per the laid down quota, the petitioners could be promoted from BPS-17 to the next higher grades, on the basis of seniority cum fitness but unfortunately, the

Mian Afrasiab
Kakakhel Advocate
HIGH COURT PESHAWAR

(46) (75)

department is creating ambiguity in the meaning of "Promotion" creating uncertainty to true positions of Petitioners.


10. That in other provinces of the Pakistan similarly placed B Tech (Hons) Degree holders filed petitions which were decided in their favour holding them entitled for further promotion from BPS-17 to next Higher grade BPS-18 and upward, for example in a case, Meher Ali Dayo and others Vs Province of Sindh in CP No.694-K/2013 decided on 15-08-2014 the apex court held and approved the promotion of B Tech (Hons) Degree Holders to next higher grade BPS-18 likewise the provinces of Sindh and Baluchistan and KPK Local Govt Department in their rules have provided chance of further promotion to B Tech (Hons) BPS -17, 18 and above. (Copy of Judgment of Supreme Court Dated 15.08.2014, letter dated 13.05.2016 and notification dated 19.03.2014 are annexed as Annexure C to C-2 at Page 37-40)
11. That needless to say that the HEC of Pakistan in letter No. 8-36/HEC/A&A/2007/1088, Dated 21 May 2007 in line with the judgment of Supreme Court of Pakistan in another case reported in PLD 1995 SC 701 has given status of equivalency to B Tech (Hons) degree holder with B.E / B.Sc Engineering. (Copy of HEC Letter dated 21.05.2007 and Judgment (PLD 1995 SC 701) are annexed D & D-1 at Page 41-50)
12. That in these circumstance petitioners were waiting that one day a follow good sense would prevail and the respondents themselves would the rules, making provisions for further promotion of the petitioners but up till now they could not make necessary and requisite amendments in the rules so under compelling circumstances petitioners filed representation to the authority for redressal of their grievances but so far no visible steps seem to have been taken in the matter
13. That It would not be out of place to mention that in the same circumstances Sub Divisional Officers/ Assistant Engineers of the C&W department filed representation to the authority for redressal of their grievances for further promotion to BPS-18 and above, the department favourably considered the demands of those Sub Divisional Officers/ Assistant Engineers of C. & W department, forwarded the summary with recommendation to Law Department for legal opinion the law department acceded to their request being genuine and opined that the department should place their case


Mian Afrasheed Gul
Kakakhel Advocate
HIGH COURT PESHAWAR

(47) (2/3)

before Standing Services Rules Committee (SSRC) without further delay. (Copy of the Law Department letter is annexed as E at Page 51)

14. That in view of recommendation of the Law Department, C & W department sent the Working papers for requisite amendments in the rules to Standing Services Rules Committee (SSRC) (Copy of Working Paper is annexed F at Page 52-53)
15. That in view of the above since the petitioners' case herein is at par and at the same footing with Engineers of C and W department is required to be moved to the concerned authority for amendment through Standing Services Rules Committee (SSRC), if need be, in understanding the true import of the word "Promotion" used in the Rules
16. That at the moment the petitioners of Instant Writ Petition being Senior Most Officers in the seniority list of their cadre deserve promotion against the quota reserved for them in the rules in BPS-18 against the vacant posts, on the basis of their strength i.e S.D.O ratio.
17. That the petitioners have learnt through reliable sources that the respondents in a post haste manner have fixed Promotion Services Board (PSB) meeting for 26-04-2018 ignoring the petitioners for promotion as per their quota fixed in the rules and duly approved by the Worthy Supreme Court of Pakistan thus if B.E/ BSc Engineers cadre is promoted then the petitioners would be deprived of their legitimate and legal right of promotion to the next higher grade forever unless their names are added in the working paper against their quota for promotion mentioned in the rules at appropriate ratio.
18. That above all, Govt of Pakistan has established National Technology Council (NTC) to administer policies, procedures and criteria for revisions of the services structure of the engineers including B Tech (Hons) graduates vide letter No. 786/178/ C & W dated 17-11-2016 which has made the recommendations to Chief Secretaries of all provinces, heads of all organizations and secretaries of Federal and Provincial Public Service Commission of Pakistan. (Copy of letter is attached as annexure G at page No. 54-)

Attested

Mian Af. Siab Gul
Kakakhel Advocate
HIGH COURT PESHAWAR

(48) (2)

18. That the petitioners finding no other adequate, efficacious, prompt and proper remedy elsewhere, invoke the constitutional jurisdiction of this Hon'able Court inter alia on the following grounds:

GROUNDS

- a. That the impugned act and actions of the respondents by misinterpreting the word "Promotion", by confining the word to BPS-17 only is misconstrue, interpreted erroneously and understood incorrectly, which act and decision of the respondents is unlawful, illegal, without lawful authority and a fallacious act.
- b. That the petitioners in view of the judgment of the Supreme Court of Pakistan have become entitled for promotion to the next higher grade as the judgment of the Supreme Court of Pakistan under article 189 of the constitution of Pakistan, is binding on all authorities as well High Court for its implementation.
- c. That almost all the departments and High Courts of other provinces have recognized the status of B Tech (Hons) equivalent to BE/ B.Sc Engineering degree as far as grades, pay and promotion and other benefits are concerned and to this effect HEC vide letter No.8-36/HEC/A&A/2007/1088 dated 21st May 2007 has issued equivalence certificate for information and compliance to all concerned. (Already annexed as annexure D)

It is therefore prayed that by accepting this Writ Petition the respondents may graciously be directed to perform their function in connection with affairs of the petitioner as required by law

Secondly the act done and proceedings taken so far with regard to requisition of meeting or promotion of SDO from BPS-17 to BPS-18 from parallel cadre may be declared illegal, without lawful authority and of no legal effect

Thirdly the Respondents may graciously be directed to make necessary amendments in the rules, create 20 percent quota

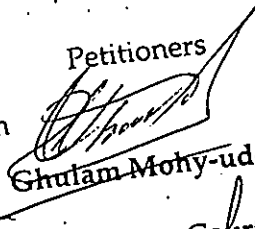
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Mian Afrasiab Ghani
Kakakhel Advocate
HIGH COURT PESHAWAR

(49) (28)

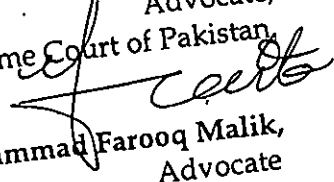
for promotion against the post of XEN BPS -18 and upward on the analogy of other provincial Governments as mentioned above, which have been acted upon by the concerned department or any other remedy which deemed proper to meet the ends of justice may also be granted.

Through

Petitioners


Ghulam Mohy-ud-Din Malik,
Advocate,
Supreme Court of Pakistan.

And


Muhammad Farooq Malik,
Advocate
High Court Peshawar.

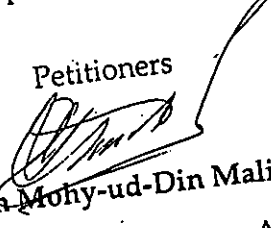
INTERIM RELIEF

May it please your lordship,

Pending final decision of Writ petition the proceedings of Promotion Selection Board (PSB) may graciously be suspended / stayed scheduled for 26-04-2018.

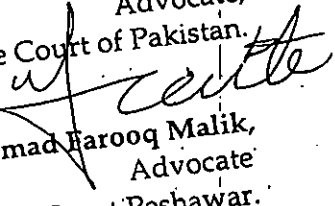
Through

Petitioners


Ghulam Mohy-ud-Din Malik,

And

Advocate,
Supreme Court of Pakistan.


Muhammad Farooq Malik,
Advocate
High Court Peshawar.


CERTIFICATE

Certified that no such Writ Petition has earlier been filed in this Hon'ble Court on behalf of the petitioners.

LIST OF BOOKS

- 1 Constitution of Islamic Republic Of Pakistan, 1973.
- 2 Any other law as per need.


ADVOCATE


Mian Afrasrab Gul
Kakakhel
Advocate
HIGH COURT PESHAWAR

Judgment.
BEFORE PESHAWAR HIGH COURT
PESHAWAR.

Judicial Department.

Writ Petition 2161-P of 2018.



Niaz Badshah & others.....Petitioners.

Vs

Govt. of Khyber Pakhtunkhwa through Chief Secretary &
others.....Respondents

Date of hearing.....19th June, 2019.....

Petitioner(s) by *Mr. Ghulam Molyuddin Malik Advocate*

Respondent(s) by *M/s. Shomail Ahmad Butt, Umar Farooq, Shakel An
Aman Usaf & Lab Nawaz Khan A.A.G.*

WAQAR AHMAD SETH, CJ: -

Vide our detailed

judgment of even date, placed on connected writ petition

bearing No.1952-P of 2018; titled Sher Wali Jang & another

versus Govt. of Khyber Pakhtunkhwa, through Chief Secretary

& others; this writ petition is dismissed being not maintainable.

Announced.
19.06.2019

CERTIFIED TO BE TRUE COPY

10 MAY 2019

Chief Justice

Judge

By Mr. Justice Waqar Ahmad Seth, Chief Justice & Mr. Justice Abdul Shakoor, JJ.
Tariq Jan, PS.

Attested
Mian Afrasiab
Kakakhel Advocate
HIGH COURT PESHAWAR

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Judgment.

BEFORE PESHAWAR HIGH COURT
PESHAWAR.

Judicial Department.

Writ Petition 1952-P of 2018.



Sher Wali Jang & another.....Petitioners.

Vs

Govt. of Khyber Pakhtunkhwa through Chief Secretary & others.....Respondents

Date of hearing.....19th June, 2019.....

Petitioner(s) by *Mr. Ghulam Mohyuddin Malik Advocate*

Respondent(s) by *M/s. Anzi Jawed Elsamullah & Rab Nawaz Ka*
ATTN

WAQAR AHMAD SETH, CJ: - Through this single

judgment / order this Court intends to decide the instant as well as connected Writ Petitions bearing No. 4464, 4722-P/2017, 2161 & 2869-P of 2018, being identical in nature.

2. By invoking the writ jurisdiction of this Court under Article-199 of the Constitution of Islamic Republic of Pakistan, 1973, Sher Wali Jang & another, hereinafter called the petitioners, have filed the petition with prayer; to direct the respondents to perform their function in connection with affairs of the petitioner as required by law; the act done and proceedings taken with regard to requisition of meeting or promotion of Sub Divisional Officers from BPS-17 to BPS-18.

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EXAMINER

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Mian Afraslab Gilani
Kakakhel Advocate
HIGH COURT PESHAWAR

(51)

(52)

may be declared illegal, without lawful authority and of no legal effect; the respondents may be directed to make necessarily amendments in the rules, create 20% quota for promotion of B Tech (Hon) Graduates against the post of XEN BPS-18 on the analogy of other provincial Governments such as Govt. of Sindh, Govt. of Baluchistan, Islamabad Electric Supply Company & Local Govt. election and Rural Development Department Local Council Board Govt. of Khyber Pakhtunkhwa.

3. In essence the case of petitioners is that, they being Sub Divisional Officer BS-17 are asking allocation of 20% quota of promotion to the post of XEN BS-18, on the analogy of sister Provinces etc.

4. We have heard learned counsel for the parties and available record gone through.

5. Perusal of available record would suggest that petitioners in all the petitions are seeking promotion either to the post of Executive Engineer, XEN BS-18 & above or to the post of Sub Divisional Engineers, BS-17 etc, on the touchstone of amending the service rules and creation / enhancement of

promotion quota. This Court is of the view that petitioners

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Mian Afzal G.
Kakahel Advocate
HIGH COURT PESHAWAR

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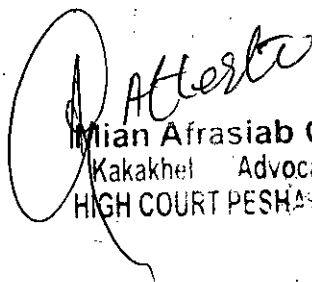
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being civil servants can agitate the issue before this Court and whether the petitions are maintainability or otherwise. Perusal of available record would depict that admittedly petitioners in all the petitions are civil servants, so purportedly on issue relating to terms and condition of their service; proper forums are available to them under section-4 of Service Tribunal Act 1974 for redressal of their grievance, in the manner prescribed therein. Petitioners are asking for allotment of quota / promotion quota to BS-18 (in service quota) which relates to the terms and condition of their service, having alternate and adequate remedy, and as such Jurisdiction of this Court is barred by the provisions of the Service Tribunals Act, 1974, read with Art. 212 of the Constitution, wherein under clause (1) of said Article the appropriate Legislature has been empowered to enact for the establishment of one or more Administrative Courts or Tribunals for exercising exclusive jurisdiction in respect of the matters referred to in sub-clauses (a), (b) and (c)

of the above clause, which inter alia include the matters relating

ATTESTED

EXAMINER


Mian Afrasiab Gur
Kakakhel Advocate
HIGH COURT PESHAWAR



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to the terms and conditions of persons (who are or have been) in the service of Pakistan including in respect of disciplinary matters. It may further be noticed that clause (2) of the above Article provides that notwithstanding anything hereinbefore contained, where any Administrative Court or Tribunal is established in terms of clause (1), no other Court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends.

6. Moreover, it is the right and prerogative of the Government / employer to make policy / rules. The Government is always empowered to grant reasonably appropriate privileges to its employees within the scope of law and its authority, and similarly it is not a constitutional or legal right of any person in the service of Pakistan to claim such a privilege in addition to the terms and conditions of his service provided under the law and the law is that the Courts should not

ordinarily interfere in the matters falling within the exclusive

ATTESTED

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 Mian Afrasiab
 Kakakhel
 Advocate
 HIGH COURT PESHAWAR

[Signature]
EXAMINER

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domain of Government or nullify its legal and constitutional
authority. The courts may not undo the action taken by the

Government in its discretion, unless there is infringement of a
legal right, rather the Courts in the light of aim and object of the

*equality
before
law.*

action should broadly regard the authority confided in the
Government. Enactment of rules or amendment therein is the
prerogative of the Government. It can enact and amend the
rules according to the needs and exigencies of service. It is not
individual but institutional interest or uplift which shapes its
service structure. Its right to improve and update its service
structure to keep pace with modern age which is indisputably
the age of specialization cannot be restrained or restricted on
the ground that at the time of appointment of one or a few civil
servants, such qualification was not a requirement for
promotion. Higher qualification or a more specialized
qualification for a post in a higher scale is a need of the hour
which has to be taken care of. The vires or validity of Rules or
amendments therein attending to such aspects, cannot,

Attest
Mian Afrab
Kakakhel Advoc.
HIGH COURT PESHAWAR

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EXAMINER

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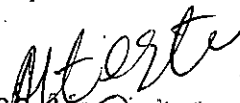
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therefore, be looked askance at. The more so when there is absolutely nothing to show that they are either person specific or an off shoot of mala fides. Reliance is placed on 1991 SCMR-1041, PLD 2004 Supreme Court 317 (b) and 2011 SCMR-1864. Indeed, each and every employee / civil servants has the preferential right to ask for promotion channel and service structure in his respect, but not before this forum. In this respect firstly the employee / civil servant is supposed to approach the departmental hierarchy for formulation of promotion policy and service structure, and then before the service tribunal, reliance in this respect is also placed Judgment of apex Court titled I.A SHARWANI Versus GOVERNMENT OF PAKISTAN, reported as 1991 SCMR-1041.

7. For the reasons recorded hereinabove this and the connected writ petition quoted above are dismissed being not maintainable. COC being the outcome of writ petition has become in-fructious disposed of as such. Show cause notice issued to respondents is hereby recalled. Vide order dated

ATTESTED

EXAMINER


Mian Afzal Jabb
Kakakher Advoc
HIGH COURT PESH

WFO 162/2011

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26.4.2018, this Court had directed the respondents to continue with the process, but shall not pass final order, however, through notification dated 23rd May, 2018, respondents had promoted certain employees, upon which COC was filed by the petitioners and vide notification dated 30th May, 2018, respondents have withdrawn / cancelled the notification of promotion. Since the matter relates to promotion of Government Servants, and this Court had restrained the respondents from issuing final order / notification, therefore, respondents may restore the earlier notification, if the promotees are eligible, otherwise.

Announced.
19.06.2019.

No. 24221
 Date of Presentation of Application 22/6/19
 No of Pages 65
 Copying fee 662
 Total 662
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Chief Justice

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Judge

By Mr. Justice Waqar Ahmad Seth, Chief Justice & Mr. Justice Abdul Shakoor, JJ.
Tariq Jan, PS

[Signature]
Attested
Mian Afrasiab Gul
Kakakheh Advocate
HIGH COURT PESH.

[Signature]
CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Government of Punjab Order 1934
16 MAY 2019

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Annex-I

To,

The Secretary to Govt:
of Khyber Pakhtunkhwa Irrigation Department,
Peshawar

THROUGH: - PROPER CHANNEL

Subject: - **APPLICATION FOR GRANT OF RIGHT OF PROMOTION**

R/Sir,

With due respect, it is submitted interalia as under:-

- That I am working as Assistant Engineer / Sub Divisional Officer under your kind patron, on the basis of B.Tech: (Honrs) Degree from a recognized University of Engineering & Technology, dully verified by Pakistan Higher Education Commission Islamabad and Foreign office also (copy annexed as **Annexure-A) (Page-07 to 10)**
- That quota for B.Tech (Honrs) graduates Sub Engineers was created in your esteemed Department vide notification dated 25.06.2012 in the official gazette of Khyber Pakhtunkhwa (Cop annexed as **Annexure-B) (Page-11 to 12)**
- That the aforementioned notifications were challenged by Mohammad Javed & others Diploma holders Sub Engineers in their service appeals before the Khyber Pakhtunkhwa Service Tribunal. The service tribunal Khyber Pakhtunkhwa remanded the matter for reconsideration, to Govt: of Irrigation Department Khyber Pakhtunkhwa vide its judgment order dated 26.02.2014.
- That Irrigation Department and private respondents including me were aggrieved from the impugned judgment of Service Tribunal Khyber Pakhtunkhwa dated 26.02.2014, filed appeals No. 795 – 805 of 2014 before the worthy Supreme Court of Pakistan. The Supreme Court of Pakistan restored the quota of B.Tech (Honrs) graduate Sub Engineers to the next higher grade of Assistant Engineers/Sub Divisional Officer, vide its judgment dated 24.11.2014 reported in S.C.M.R 2015 P/269,

Mian Afrabiab G
Kakakhel Advoca
HIGH COURT PESHAWAR

titled Chief Secretary Khyber Pakhtunkhwa and others V/S Mohmmad Javed & Others (Copy of the judgment is annexed as **Annexure-C) (Page-13 to 20)**

- That the private respondents filed review petition in the Supreme Court of Pakistan which was also rejected vide Supreme Court of Pakistan Judgment dated 12.01.2015 and the issue is now of past and closed transactions (Copy of the judgment is annexed as **Annexure-D) (Page-21)**
- That since the judgment of Supreme Court of Pakistan has got finality and its implementation is legally obligatory on all courts and authorities under Article 187, read with Article 189 of the constitution of Islamic Republic of Pakistan 1973.
- That the petitioner and his colleagues were waiting for amendments in the rules for further promotion to the next higher scale BPS-18 & above, but the appointment promotion rules, 1989 Khyber Pakhtunkhwa as applicable in Irrigation Department are not amended up-till now, as per the verdict of august Supreme Court of Pakistan mentioned above.
- That the petitioner along with others 03 petitioners approached the august High Court Peshawar vide Writ Petition No. 2161/P, 2018 for redressal of our grievances (copy of the W.P is annexed as **Annexure-E) (Page-22 to 28)**
- That the august High Court Peshawar dismissed the Writ Petition No. 2161/P, 2018 on dated 19.06.2019, on technical grounds of maintainability under Art: 212 (2) read with Service Tribunal Act 1974, and avowed that it is a matter of terms and condition of Service, therefore appropriate forum is the Service Tribunal Khyber Pakhtunkhwa and the Govt: have also the right to amend the service rules as its prerogative (copy of the judgment is annexed as **Annexure-F) (Page-29 to 36)**

Mian Afzal
 Mian Afzal
 Kakakhel
 Advocate
 HIGH COURT PESHAWAR

➤ That Irrigation Department is totally a Department of Civil Engineering to the exception of a few posts of Mechanical Engineers. Both the disciplines are altogether different at 180°, except to the common of Pakistan studies and Islamic Education. But most of the Mechanical Engineers are working over the posts of Civil Engineers. They perform duties from Sub Engineer (Civil) to the level of Superintending Engineer of the Irrigation department and in past even some of them were Chief Engineer. There are also some officers who have neither civil Engineering Degree nor Mechanical Engineering Degrees but are elevated at higher grades. To prove my contentions curriculum of B.Sc Engineering Civil and B.Sc Engineering Mechanical may be confirmed from any institution or as your honours please.

➤ That B.Tech (Honrs) degrees syllabus which is almost the same as that of the B.Sc Engineering Civil and 95% courses Book and comments of course are common with the B.Sc Engineering civil. Both the degrees are issued from the same either the curriculum of B.Tech (Honrs) & B.Sc Civil Engineering is annexed as **Annexure G & H) (Page-37 to 42 & 43 to 48)**. But contrary to the natural justice B.Tech (Honrs) degree from the same Universities are from Independent Universities have no recognition from P.E.C of Pakistan (while Mechanical Engineering Degrees from a recognized University have the recognition), no doubt Mechanical Engineers are rightly registered. There is a monopoly of upper hand over the lowers but for their own job and purpose.

➤ That P.E.C is a subordinate autonomous body of Higher Education Commission of Pakistan, Higher Education Commission recognized B.Tech (Honrs) degrees at par with B.E/B.Sc Engineering Degrees for the purpose of pay, grade and promotion vide its notification No. 8-36/HEC/A&A/20, dated 21.05.2007. (copy is annexed as **Annexure-I) (Page-49)**

Attorney
 Mian Afrasheed
 Kakakhel Adv.
 HIGH COURT PESH

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- That Higher Education Commission has constituted N.T.C Pakistan also a subordinate entity, which recognizes and deal with the matter of Engineering Technologist. The N.T.C of Pakistan has also registered me as professional Engineering Technologist (Copy is annexed as **Annexure-J**) (Page-50) A letter of recognition of Chairman N.T.C Islamabad is also annexed as **Annexure- K**) (Page-51)
- That P.E.C Act 1976 is not applicable on government Department there is nothing in the act to say that it is applicable on government of Pakistan/its provincial departments, but it is an autonomous body to deal with the affairs of Engineers only.
- That government servants are not in any way subordinate to the P.E.C nor it has authority to impose its will on which government department its own hierarchy, rules and regulation. This question has been once for all settled by the worthy Supreme Court of Pakistan in PLD 1995 page 701 (Copy of the judgment is annexed as **Annexure-L**) (Page-52 to 59)
- That for the purpose of professional engineering works, consultants are hired by all the government departments which exceed 100 million and in this case professional Engineers are required to all the Engineering departments in Khyber Pakhtunkhwa, even the officers/officials of any works department are engineers registered with P.E.C or otherwise.
- That B.Tech (Honrs) degree holders, get their degrees from recognized Universities accredited authorized by the Govt: of Pakistan. B.Tech (Honrs) degrees are awarded under Sidny accord. This degree has a worldwide recognition having profound practical capability of execution of all nature of work in the relevant field of engineering and technology.

Attested
Mian Afrasiab
Kakakhel Advocate
HIGH COURT PESHAWAR

- That it is astonishing that government of Pakistan has established Universities, Institutions which offer B.Tech (Honrs) courses, but there is no service structure for them.
- That having no service structure then why these Universities / institutions offer such courses and wasting precious time of students and money. There is also burden on public exchequer, as public sector universities / institutions also offer B.Tech (Honrs) course, as per the curriculum of N.T.C Pakistan.
- That acts and omissions of the government of denying further promotion to B.Tech (Honrs) degree holder, is violation of the fundamental rights, enshrined to the citizen of Pakistan under the constitution of Islamic Republic of Pakistan 1973 and is also discrimination by escaping its responsibilities through granting and free hand to PEC and strengthening their unlawful monopoly.
- That under the principles of equally law and constitution all are equal in eye of law and no one is above law.
- That promotion is a right of a civil servant, which cannot be denied to an individual or a group of individuals, as explicitly mentioned in the judgment referred above as **Annexure-F) (Page-29 to 36)**
- Those B.Tech (Honrs) degree holders are doing hectic efforts for their legitimate rights of promotion since 1973. But they get their rights through court of law and are aggrieved. Govt: servants, except in few departments of Pakistan / Provinces, they have a little recognition.
- That B.Tech (Honrs) degree has been declared equal / at par by the august High Court Peshawar in Writ Petition No. 328/2013 vide its judgment dated 25.04.2013 (copy annexed as **Annexure-M) (Page-60 to 61)**

Attested
 Mian Afrasiab G.
 Kakakhel Advocate
 HIGH COURT PESHAWAR

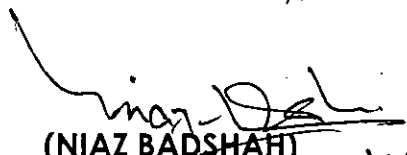
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- That all the P.E.C registered Engineers who were working as Assistant Engineer/Sub Divisional Officers are promoted to the next higher grade BPS-18 but we in the promotion zone are still deprived of our rights of promotion.
- That the word promotion cannot be construed only to one step of promotion.
- That there is a complete monopoly of P.E.C Engineers, in all sphere of works department and they have create a lot of problem in the way of stepping up of B.Tech (Honrs) degree holders, which is unjust and unfair.*

It is, therefore, humbly prayed that a right of further promotion may graciously be granted to me by amendment in the rules for B.Tech (Honrs) degree holder, as a separate category according to law, please.

With due regards

Enclosure (A.A)

Yours Obediently,

(NIAZ BADSHAH)
 Sub Divisional Officer,
 Mardan Irrigation Sub Division,
 Mardan

Copy of the above is forwarded to the Honourable Secretary to Govt: of Khyber Pakhtunkhwa Irrigation Department Peshawar along with its enclosure for advance information with the request of a favourable consideration, please.

Enclosure (A.A)

Sub Divisional Officer,
 Mardan Irrigation Sub Division,
 Mardan

Attested

Mian Afrasrab Gui
 Kakakhel Advocate
 HIGH COURT PESHAWAR

(62) ~~ANNEXURE~~ (37)

CURRICULUM FOR BACHELOR OF CIVIL TECHNOLOGY

Working Parameters

Annex-J

Before deliberating on the detailed curriculum the Civil Techno formulated the following parameters:

- a. Name of the Degree:
Bachelor of Technology (Civil)
- b. Duration:
It was recommended to continue with four year duration of the course.
- c. Mode of Study/Training.
In view of the practical employment of the B Tech graduates, it was felt that course content should be more practical oriented.

Following recommendations were made in this regard:

- 1) The course should consist of 4 years campus study/training And OJT (sandwiched on job training). The OJT be during the last year
- 2) The overall theory and practical ratio will be maintained at 45(T): 55(P).
- 3) Student will be promoted to next year after completing the previous courses.

d. Subjects of Study:

The subjects of study will be divided in two groups namely core subjects (relating directly to technology) and allied subjects (maths, computers etc). The core and allied subjects will be included in following proportion:

Core subject	=	70 percent
Allied subjects	=	30 percent

2. Revision of Curriculum.

After formulating the above parameters, the Study Group proceeded to finalize the revision of curriculum.

Following documents were consulted for this purpose:

- a. Proposed revision plan of TEVTA (Punjab).
- b. Existing curriculum of B Tech at Govt. College of Technology, Hyderabad.
- c. Existing curriculum of B. E. Civil Mehran University of Engg. & Technology, Jamshoro.
- d. B Tech syllabus of Madras Institute of Technology (India).

Attest
(A)
Mian Afrasiab Gul
Kakakhel Advocate
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- e. Existing curriculum of B Tech (Hons) at Govt College of Technology, Rasul (Punjab).
- f. Existing curriculum of B.Tech Four Years Programme 2004 in vogue in different institution of Khyber PakhtoonKhwan

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Mian Afrasiab Gul
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Guidelines for Internship

The students shall undergo supervised internship (minimum period of 32 weeks).

The students are required to submit monthly Progress Report to the institute duly verified by their Industrial supervisor.

The institute is responsible to liaison with all industrial supervisors to check the student's performance

At the end of the training, the students are required to submit a detailed report to the institute and undergo viva-voce examinations.

Summary

Non- Technological Subjects (NT)	30%
Technological Subjects (T)	70%
1. Foundation Courses (T/F)	30%
2. Breadth Courses (T/B)	30%
3. Depth Courses (T/D)	40%

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**SCHEME OF STUDIES
FOR BACHELOR OF TECHNOLOGY
CIVIL TECHNOLOGY
Duration: 4 Years**

First Year B.Tech. (Civil)

S. No.	Course nature	Course name	T	P	Contact Hrs.	Marks	
						T	P
1	CS113	Applied Mathematics-I	3	0	3	150	0
2	CT122	Computer Applications	1	3	4	50	50
3	CH132	Communication Skills-I	2	0	2	100	0
4	CT144	Applied Mechanics	3	3	6	150	50
5	CT154	Civil Engineering Drawing	2	6	8	100	100
6	CT164	Concrete Technology	3	3	6	150	50
7	CT174	Surveying	2	6	8	100	100
8	CT183	Material and Methods of Construction	3	0	3	150	0
9	CH192	Islamiat and Pak Studies-I	2	0	2	100	0

Total Hours	21	21	42	1050	350
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Mian Afzasiab Gul
Kakakhel Advocate
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Second Year B.Tech. (Civil)

S. No.	Course nature	Course name	T	P	Contact Hrs.	Marks	
						T	P
1	CS213	Applied Mathematics-II	3	0	3	150	0
2	CT223	Theory of Structures	2	3	5	100	50
3	CT234	Soil Mechanics	3	3	6	150	50
4	CT243	Fluid Mechanics	2	3	5	100	50
5	CT253	Mechanics of Materials	2	3	5	100	50
6	CT263	Highway and Transportation Engineering	2	3	5	100	50
7	CT273	Water Supply and Waste Water Management	2	3	5	100	50
8	CT283	Quantity Surveying and Contract Document	3	0	3	150	0
9	CT292	Material Testing, Repair & Maintenance	2	0	2	100	0
10	CH2102	Communication Skills-II	2	0	2	100	0
Total Hours			23	18	41	1150	300

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Mian Afrasrab G.
Kakakhel
Advocate
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Third Year B.Tech. (Civil)

S. No.	Course nature	Course name	T	P	Contact Hrs.	Marks	
						T	P
1	CT314	Irrigation and Hydraulic Structures	3	3	6	150	50
2	CT324	Reinforced Concrete Structures	3	3	6	150	50
3	CT333	Steel Structures	3	0	3	150	0
4	CT343	Hydrology	2	3	5	100	50
5	CT352	Computer Aided Building Modeling and Design	1	3	4	50	50
6	CT364	Foundations and Pavements	3	3	6	150	50
7	CT374	Environmental Management	3	3	6	150	50
8	CT382	Engineering Geology	2	0	2	100	0
9	CT392	Introduction to Earthquake Engineering	2	0	2	100	0
10	CH3102	Islamiat and Pak Studies-II	2	0	2	100	0
Total Hours			24	18	42	1200	300

Fourth Year B.Tech. (Civil)

S. No.	Course nature	Course name	T	P	Contact Hrs.	Marks	
						T	P
1	CT413	Project Management	2	3	5	100	50
2	CT423	Engineering Economics	3	0	3	150	0
3	CT432	Project	0	6	6	0	100
4	CT44X	Internship	0	36	36	0	600
Total Hours			5	45	50	250	750

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Mian Afraz Gul
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~~ANNEXURE~~

(13)

FRAMEWORK FOR 4-YEAR IN BSc/BS/BE CIVIL ENGINEERING PROGRAMME

Duration: 4 years
 Number of Semesters: 8
 Number of weeks per semester: 18 (16 for teaching and 2 for examinations)
 Total number of credit hours: 136
 Number of credit hours per semester: 14-20
 Engineering Courses: 70 per cent
 Non-Engineering Courses: 30 per cent

Non-Engineering Domain							
Knowledge Area	Sub Area	Name of Course	Lec CH	Lab CH	Credit Hours	Total Courses	Total Credit
Humanities	English	Functional English	2	0	2	2	5
		Business Communication	2	1	3		
	Culture	Islamic Studies	2	0	2	2	3
		Pakistan Studies	1	0	1		
	Social Sciences & Ethics	Professional Ethics	2	0	2	2	5
		Social Science Elective	3	0	3		
Management Sciences	Professional Practice	Construction Management	2	1	3	3	8
		Engineering Economics	2	0	2		
		Management Science Elective Course	3	0	3		
Natural Sciences	Math	Applied Calculus/Math-I	3	0	3	7	20
		Applied Differential Equations/Math-II	3	0	3		
		Numerical Analysis/Math-III	3	0	3		
		Probability & Statistics/Math-IV	2	1	3		
	Physics	Engineering Mechanics	3	1	4		
	Earth Sciences	Engineering Geology	2	0	2		
		Geo Informatics	1	1	2		
Total						16	41

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M. I. A. Afrasrab G. C.

Kakakhel Advocate

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Lec CH: Lecture Credit Hours Lab CH: Laboratory Credit Hours

Engineering Domain							
Knowledge Area	Sub Area	Name of Course	Lec CH	Lab CH	Credit Hours	Total Courses	Total Credits
Computing	Fundamentals	Computer Programming	1	2	3	3	9
	Estimation	Quantity & Cost Estimation	2	1	3		
	Design	Civil Engg. Drawing & Graphics	1	2	3		
Engineering Foundation	-	Civil Engg Materials	2	1	3	9	29
		Engineering Drawing	1	2	3		
		Engineering Surveying	2	1	3		
		Mechanics of Solids-I	2	1	3		
		Structural Analysis-I	3	0	3		
		Soil Mechanics	3	1	4		
		Fluid Mechanics	3	1	4		
		Construction Engineering	3	0	3		
		Engineering Hydrology	2	1	3		
Major Based Core (Breadth)	-	Advanced Engineering Surveying	2	1	3	6	20
		Advanced Fluid Mechanics	3	1	4		
		Reinforced Concrete Design-I	3	1	4		
		Environmental Engineering- I	2	1	3		
		Transportation Engineering-I	3	0	3		
		Structural Analysis-II	3	0	3		
Major Based Core (Depth)	-	Reinforced Concrete Design-II	3	1	4	7	24
		Mechanics of Solids-II	2	1	3		
		Geo Technical & Foundation Engineering	3	1	4		
		Transportation Engineering-II	3	1	4		
		Environmental Engineering-II	2	0	2		
		Steel Structures	3	0	3		

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 Mian Afrasiab
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Knowledge Area	Sub Area	Name of Course	Lec CH	Lab CH	Credit Hours	Total Courses	Total Credits
		Hydraulics & Irrigation Engineering	3	1	4		
Inter-Disciplinary Engineering Breadth (Electives)	--	Basic Electro-Mechanical Engineering	2	2	4	2	7
		Architecture & Town Planning	3	0	3		
Civil Engineering Project	--	Civil Engineering Project	0	3	3	1	6
		Civil Engineering Project	0	3	3		
Total						28	95

SUMMARY-CIVIL ENGINEERING

Domain	Knowledge Area	Total Courses	Total Credit Hours	% Overall
Non-Engineering	Humanities	6	13	30
	Management Sciences	3	8	
	Natural Sciences	7	20	
	Sub Total	16	41	
Engineering	Computing	3	9	70
	Engineering Foundation	9	29	
	Major Based Core (Breadth)	6	20	
	Major Based Core (Depth)	7	24	
	Inter-Disciplinary Engineering Breadth (Electives)	2	7	
	Civil Engineering Project	1	6	
	Industrial Training/Internship (Summer)	0	0	
	Sub Total	28	95	
Total		44	136	100.00

Student Induction Criteria

HEC has set the following minimum requirements for admission in the program

- 60% marks in HSSC/FSc (Pre-Engineering) / Equivalent Qualification
- Qualifying the Entry Test

Institutions are expected to have well laid-out and transparent procedure to compute overall merit for admission in the program.

Attester
 Mian A. Ijaz Gill
 Kakran
 HIGH COURT PESHAWAR
 Advoc.

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SCHEME OF STUDIES OF CIVIL ENGINEERING FOR BSc/BS/BE LEVEL

Course No	Course Outline	Knowledge Area	Sub Area	Credit Hours (Theory + Practical)	Contact Hours (Theory + Practical)	Total Credit Hours
SEMESTER-I						
1	Civil Engineering Materials	Engineering Foundation	F-I	2+1	2+3=5	3
2	Basic Electro-Mechanical Engineering	IDEE	IDEE-I	2+2	2+6=8	4
3	Engineering Drawing	Engineering Foundation	F - II	1+2	1+6=7	3
4	Functional English	Humanities	English-I	2+0	2+0=2	2
5	Applied Calculus / Maths-I	Natural Sciences	Math-I	3+0	3+0=3	3
6	Pakistan Studies	Humanities	Culture-I	1+0	1+0=1	1
				11+5	11+15	16
SEMESTER-II						
7	Engineering Surveying	Engineering Foundation	F - III	2+1	2+3=5	3
8	Engineering Geology	Natural Sciences-I	Elective-I	2+0	2+0=2	2
9	Islamic Studies	Humanities	Culture-II	2+0	2+0=2	2
10	Engineering Mechanics	Natural Sciences	Physics	3+1	3+3=6	4
11	Applied Differential Equations / Maths-II	Natural Sciences	Math-II	3+0	3+0=3	3
				12+2	12+6	14
SEMESTER-III						
12	Computer Programing	Computing	Fundamentals	1+2	1+6=7	3
13	Civil Engg. Drawing & Graphics	Computing	Design	1+2	1+6=7	3
14	Advanced Engineering Surveying	Breadth	B - I	2+1	2+3=5	3
15	Mechanics of Solids-I	Engineering Foundation	F - IV	2+1	2+3=5	3
16	Engineering Economics	Management Sciences	Management Science	2+0	2+0=2	2
				8+6	8+18	14

Affected

Mian Afzal Gujjar
Kakakhel
HIGH COURT PESHAWAR
Advocate

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Course No	Course Outline	Knowledge Area	Sub Area	Credit Hours (Theory + Practical)	Contact Hours (Theory + Practical)	Total Credit Hours
SEMESTER-IV						
17	Construction Engineering	Engineering Foundation	F-VIII	3+0	3+0=3	3
18	Structural Analysis-I	Engineering Foundation	F - V	3+0	3+0=3	3
19	Soil Mechanics	Engineering Foundation	F - VI	3+1	3+3=6	4
20	Numerical Analysis / Maths-IV	Natural Sciences	Math - IV	3+0	3+0=3	3
21	Fluid Mechanics	Engineering Foundation	F - VII	3+1	3+3=6	4
				15+2	15+6	17
SEMESTER-V						
22	Probability & Statistics/ Math IV	Natural Sciences	Math-V	2+1	2+3=5	3
23	Advanced Fluid Mechanics	Breadth	B - II	3+1	3+3=6	4
24	Business Communication	Humanities	English-II	2+0	2+0=2	2
25	Professional Ethics	Humanities	Social Science	2+0	2+0=2	2
26	Reinforced Concrete Design-I	Breadth	B - III	3+1	3+3=6	4
27	Quantity & Cost Estimation	Computing	Estimation	2+1	2+3=5	3
				14+4	14+12	18
SEMESTER-VI						
28	Construction Management	Management Sciences	Professional Practice-I	2+1	2+3=5	3
29	Mechanics of Solid-II	Depth	D-I	2+1	2+3=5	3
30	Reinforced Concrete Design-II	Depth	D-II	3+1	3+3=6	4
31	Transportation Engineering-I	Breadth	B-IV	3+0	3+0=3	3
32	Engineering Hydrology	Engineering Foundation	F-IX	2+1	2+3=5	3
33	Structural Analysis-II	Breadth	B-V	3+0	3+0=3	3
				15+4	15+12	19

Attest
 Mian Afrasiab Gul
 Advocate
 HIGH COURT PESHAWAR

Annex K. (76)

(47)

ANNEXURE

(49)



ہائر ایجوکیشن کمیشن

HIGHER EDUCATION COMMISSION

Sector H-9, Islamabad, (Pakistan), Phone: + 92-51-9257508, 9040708
Fax: + 92-51-9040713; URL: http://www.hec.gov.pk

MUHAMMAD JAVED KHAN
Director General (Attestation & Accreditation)
mjkhan@hec.gov.pk

No.8-36/HEC/A&A/2007
May 21, 2007

11098

Mr. Majid Rafi,
Block # 12-D, Flat # 02,
Cat-IV, I-9/4 Islamabad

Subject: Equivalence of Bachelor of Technology (Hons) in Electrical Technology degree awarded by the Preston University, Konat.

Dear Sir,

With reference to your application dated May 21, 2007 on the subject, the decision regarding equivalence of B.Tech (Hons) degree was taken in its 39th meeting of Equivalence Committee of erstwhile UGC held on 12.2.1998 had declared B.Tech (Hons) degree as compatible and at par to BE/B.Sc Engineering for purpose of employment. The decision of the Committee is reproduced below for your information:

"The degree of B.Tech (Hons) is not similar to B.E/B.Sc Engineering degree. Both the degrees of B.E/B.Sc Engineering and B.Tech (Hons) be considered as two distinct disciplines of knowledge in the field of Engineering and Technology and should run parallel to each other. However, B.Tech (Hons) may be treated at par and compatible with B.E/B.Sc Engineering degree holders as far as grades, pay and promotions and other benefits are concerned.

Yours faithfully,

[Signature]

[Signature]
Muhammad Javed Khan

Head Clerk
Public Health Engg. Division
Abbottabad

Attested

to be true copy

Mian Aftab
Kakhal
Advoc
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SEMESTER-VII						
34	Environmental Engineering-I	Breadth	B - VI	2+1	2+3=5	3
35	Management Science Elective	Management Sciences	Management	3+0	3+0=3	3
36	Architecture & Town Planning	IDEE	IDEE-II	3+0	3+0=3	3
37	Geotechnical & Foundation Engineering	Depth	D - III	3+1	3+3=6	4
38	Transportation Engineering-II	Depth	D - IV	3+1	3+3=6	4
(44)	Civil Engineering Project	Civil Engineering Project	--	0+3	0+9=9	3
				14+6	14+18	20

Course No	Course Outline	Knowledge Area	Sub Area	Credit Hours (Theory + Practical)	Contact Hours (Theory + Practical)	Total Credit Hours
SEMESTER-VIII						
39	Geo Informatics	Natural Science	Elective-II	1+1	1+3=4	2
40	Environmental Engineering-II	Depth	D - V	2+0	2+0=2	2
41	Steel Structures	Depth	D - VI	3+0	3+0=3	3
42	Hydraulics & Irrigation Engineering	Depth	D - VII	3+1	3+3=6	4
43	Social Science Elective	Humanities	Social Sciences	2+0	2+0=2	2
44	Civil Engineering Project	Civil Engineering Project	--	0+3	0+9=9	3
				11+5	11+15	16

Total Credit Hours = 136

Any one from the list at Annex "A"

Abbreviations used:

1. SS - Social Science
2. F - Foundations
3. NS - Natural Science
4. B - Breadth
5. IDEE - Inter-disciplinary Engineering Elective.
6. D - Depth

Attest

Mian Asim Habib Gul
Kakara Advor
HIGH COURT, PESHAWAR

ANNEXURE B
NATIONAL TECHNOLOGY COUNCIL (NTC)

ISLAMABAD

Phone: +9251-90802780

H-8/1, Higher Education Commission, Islamabad

Ref: 788/172/CEC

Date: 17-11-2016

To The Honourable

1. Chief Secretaries All Provinces
2. Heads of All Organizations
3. Secretaries of Federal & Provincial Public Service Commission Pakistan

Subject: Appointment/Promotion of 4 years B.Tech(Hons)/B.Sc(Technology)
/B.Sc(Engg) Technology Degree Holders In Grade 17 & Above

Dear Sir/Madam,

It is brought to your kind notice that previously Engineer's recruitment Rules are prevailing as B.Sc(Engg) registered with Pakistan Engineering Council.

But now, subject mentioned degrees are being awarded by UET's/Private Sector Universities of which status is at par and compatible with B.Sc(Engg)/B.E degree. The purpose of this programme is to meet increasing Technology manpower instead of theory Engineers in Pakistan.

So, the Technology Education covers the same topics for Field engineers/Engg Technologists & their knowledge is more applied in nature as opposed to purely theoretical knowledge. The work of applied Engineers is usually focused on position of the technological spectrum closest to product improvement, manufacturing, construction, safety and Engineering operational functions.

Consequently, Govt. of Pakistan has established National Technology Council (NTC) to accredit and register these graduates vide gazette Notification No.19-3/HEC/HRM/2015/4721, dated:02-10-2015 (copies attached) instead of PEC which has started its function as website www.ntc-hec.org.pk NTC shall administer policies procedures and criteria for revision of the same.

It will be appreciated if Technology graduates be allowed to appear in Tests/Interviews for jobs in Grade 17 & above, amending service rules.

Technology graduates will perform better than Theory Engineers.

With best regards.

Yours Faithfully,

M. Yaqoob Raza

Convener All Engineering Technologies
National Technology Council, HEC

Contact: +92 333 8107794

O/A. as above

C.C.

1. Maj Gen (R) Akbar Saeed Awan ✓
Chairman NTC
HEC-8/Islamabad

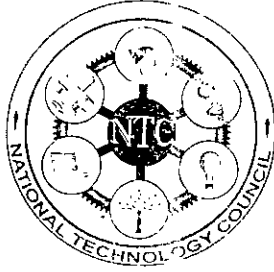
Attested

to be true copy

Attested
Mian Afrasiab C
Kakakhal Advocate
HIGH COURT PESHAWAR

78

Serial No : P000057



Amey - M.

NATIONAL TECHNOLOGY COUNCIL

Registration No: PE.Tech/Civil/00057

Date of Registration: 24-07-2018



CERTIFICATE OF REGISTRATION

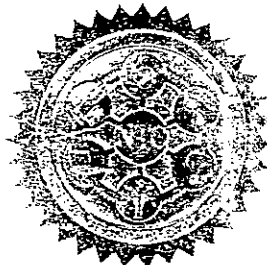
This is to certify that Mr. Niaz Badshah Son of Saeed badshah
Date of Birth: 30-01-1965 CNIC No: 11201-9775828-9 resident of Muslim Bagh, Serai Naurang,
District Lakki Marwat, present professional address Mardan Irrigation Division, KPK
has been awarded Life-Time registration as **Professional Engineering Technologist** and entered in the
National Register of Technologists Pakistan with following particulars:

Qualification(s): Bachelors of Technology (Honors) in Civil Technology, 2011.
Degree Awarding Institution: Preston University, Kohat

Professional Affiliation
With status: ---

Specialization /
Training / Attainments: ---

Attest
Ab
Mian Afzal
Kakakhel Advor
HIGH COURT PESH

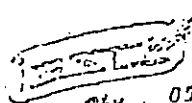


Date of Issue: **31 JUL 2018**

Tameez Lodhi
Registrar
NATIONAL TECHNOLOGY COUNCIL
ISLAMABAD PAKISTAN.

Annex-N

79



Islamabad Electric Supply Company

Tel: 051-9252937-39 (Ext. 310)
Fax: 051-9252927

HR & Admin Directorate
IESCO Head Office
Sl. No. 40 G-1/4 Islamabad

No. 34753-96 / CEO/IESCO/HRM/

Dated: 13/1/2012

Office Order

Re: Decision of the 102nd BoD IESCO meeting held on 03 July, 2012 circulated vide Manager (C&C) IESCO Islamabad letter No. 1520-21 dated 31.07.2012.

Approval of BoD is hereby conveyed to fix 10% promotion quota against the posts of Senior Engineers for Junior Engineers having qualification of B.Tech (Honors) subject to the following:-

That the examination syllabus as for the Departmental Promotion Exam for Graduate Engineers, be adopted at IESCO level;

IESCO to conduct departmental exam at IESCO level through external institution

Only the officer, who passes the examination, would be eligible for the purpose of promotion, subject to fulfilling other conditions set for promotion purpose.

MUSHRAF AHMAD
Director General (HR)

C.C

- 1 All General Managers IESCO Head Office
- 2 All Chief Engineers IESCO Head Office Islamabad.
- 3 Finance Director IESCO Islamabad.
- 4 All Managers IESCO Head Office, Islamabad.
- 5 All Managers (Opr) under IESCO Islamabad.
- 6 Addl: DG (MIS) IESCO Computer Center Islamabad.
- 7 Medical Superintendent WAPDA Hospital Rawalpindi.
- 8 P.D Construction (Opr) IESCO Islamabad.
- 9 P.D (GSC) IESCO Islamabad.
- 10 SE GSO Circle IESCO Islamabad.
- 11 SE Surveillance IESCO Rawalpindi.
- 12 Regional Manager (M&T) IESCO Islamabad.
- 13 Senior Medical Officer, IESCO Dispensary Islamabad
- 14 Dy. Chief Auditor IESCO Islamabad.
- 15 Dy. Manager Security IESCO Islamabad.
- 16 Dy. Manager (TPT) IESCO Islamabad.
- 17 XEN Civil Division IESCO Islamabad.
- 18 Dy. Manager RTC IESCO Islamabad.
- 19 Master File

Attested
to be true copy

Mian Aftab Gul
Kakrahail Advocate
HIGH COURT PESHAWAR

Annex - 9

Better copy

Better copy

Government of Khyber Pakhtunkhwa
Local Government & Rural Development Department
LOCAL COUNCIL BOARD

Dated Peshawer, the 13th May 2016

NOTIFICATION,

No.LG/LCB/ESTT:/ 2-5 /2016: The provincial government in local government election & rural development department, with the approval of the board in its meeting held on 1/3/2016 is pleased to amend the criteria provided under rule-9(1) (c) of the khyber Pakhtunkhwa LCs-PUGI (service) Rules, 1981 for the LCs-PUGI (Eng- cadr)

AMENDMENTS

" In column no.5 of s#2 as under

After the word " by selection on merit from among persons and in the matter specified in clause (e) of sub rule (1) of rule -9 with at least having 5 years service in BPS-17 the following formula;

- | | |
|-------------------|---------|
| (a) B.Sc/ BE | = 70 % |
| (b) B.Tech (Hons) | = 20. % |
| (c) DAE | =10 % |

Chairman
Local Council Board
Khyber Pakhtunkhwa

Copy forwarded to the

1. Director Local Fund Audit Khyber Pakhtunkhwa
2. All Deputy Secretaries LCB, Khyber Pakhtunkhwa
3. Chief Engineer, LCB, Khyber Pakhtunkhwa
4. Section Officer (Estab) LGE&RDD, Khyber Pakhtunkhwa
5. All Town / Tehsil Municipal Officers in this Province for information
6. PA to all Additional Secretary, LGE&RDD, Khyber Pakhtunkhwa
7. PS to Secretary, LCB, Khyber Pakhtunkhwa
8. Office Notifications/ Master file

---SD---

Deputy Secretary(A)
Local council board
Khyber pakhtunkhwa

Attested

to be true copy

Attested
Mian Aftab G.
Kakakhel Advocate
HIGH COURT PESH

(81) Annex-P

Annexure AA

PESHAWAR HIGH COURT ABBOTTABAD BENCH

JUDICIAL DEPARTMENT

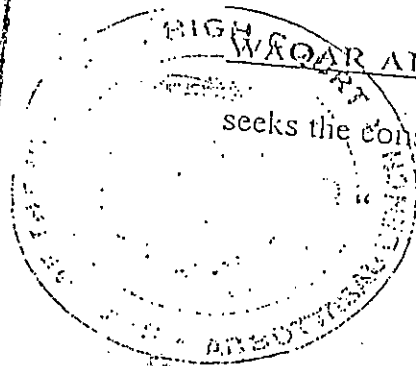
JUDGMENT SHEET

W.P.No. 328 of 2013

Date of hearing 25-04-2013

Petitioner Zahid Hussain Shah by Mr. Farooq Salih, Adv

Respondents Chief Secretary



WAOAR AHMAD SETH, J. Zahid Hussain Shah petitioner seeks the constitutional jurisdiction of this Court praying for :-

that on acceptance of the writ petition, the respondents be directed that the quota for the associate / sub engineers having B.Tech Honours be equated, uplifted and enhanced to 10% with the other similarly placed sub engineers in the connected / allied departments and with the graduates having B.Sc. engineering, who are at par with the B.Tech Honour graduates and with further direction that the decision taken in the meeting dated 21.03.2013 of the standing service rules committee and letter dated 21.03.2013 be declared as unlawful, against rules, law, facts and being discriminatory and the same be liable to be enhanced to 10% and the respondents be directed not to discriminate with the petitioner along with other similarly placed within the same department and further directions to the respondents that the quota for associate / sub-engineer with b-tech honors degree, working in the Public Health Engineering Department Khyber Pakhtunkhwa be enhanced to 10%".

Certified to be True Copy
18.6.13
Examiner
Peshawar High Court
Abbottabad Bench
Authorized Under Section 7 of the Act

SUPREME COURT OF PAKISTAN

Attested
Mian Ahsan ul Haq
Kakakhel
Advocate
HIGH COURT PESHAWAR

2- In essence, petitioner being B.Tech. (Honours) degree holder seeks annulment of decree in promotion quota from 5% to 3%.

3- Learned counsel for petitioner argued that this Court in similar writ petition No.1124 of 2006 has held the degree of B.Tech (Hons) equivalent to B.Sc. Engineering / B.E. Degree and as such decrease in case of promotion of petitioner is against law.

4- Arguments heard and record perused.

5- The degree of B.Tech (Hons) and the degree of B.E. / B.Sc. Engineering were although held having distinct disciplines of knowledge in field of Engineer and Technology but for the purpose of service, seniority and promotion they were considered equally and Writ Petition No.1124 of 2006 decided on 21.02.2003 having been filed in similar circumstances was allowed and no appeal has been preferred so far against the said judgment. In the circumstances, present writ petition merits acceptance.

6- Consequently, this writ petition is allowed as prayed for in the light of judgment referred to above.

Announced.
25.04.2013

SD: YAKUB AFRIDI

SD: WAHAB AHMED

JUDGES

Certified to be True Copy
186-13
EX-101
Faisalabad High Court
Abbottabad Bench
Announced Under Section 221C

Attested
Mian A. Ishaq Gill
Kakakhel Advocate
COURT PESHAWAR

**BEFORE THE HONOURABLE CHAIRMAN
SERVICE TRIBUNAL, KP
PESHAWAR**

In Re: Service Appeal No. _____/2019

Niaz Badshah

..... *Appellant*

Versus

Government of KPK and others

.....*Respondents*

MEMO OF ADDRESSES

Appellant

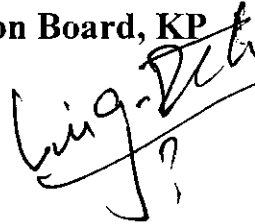
Niaz Badshah

Assistant Engineer/Sub Divisional Officer in Irrigation Department Khyber Pakhtunkhwa

Respondents.

1. **Government of KPK**
Through chief secretary
2. **Secretary Irrigation department Civil Secretariat, Peshawar**
3. **Secretary Finance Department KP, Civil Secretariat, Peshawar**
4. **Secretary Establishment Department KP, Civil Secretariat,
Peshawar Secretary Law Department KP, Civil Secretariat,
Peshawar**
5. **Chairman SSRC (Standing Services Rule Committee, Irrigation
Department).**
6. **Chairman Public Services Selection Board, KP**

Appellant
Through

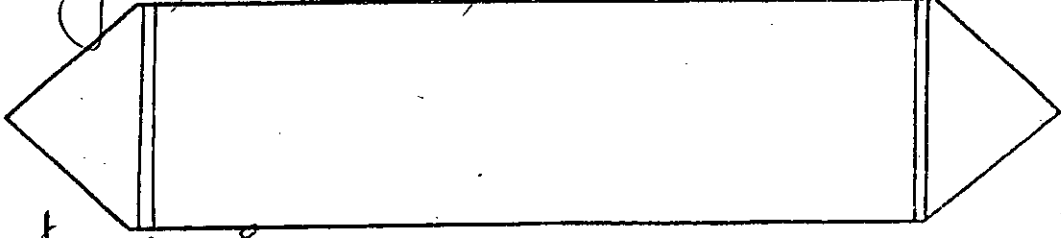


Mian Afrasiab Gul Kakakhel
AHC

Mina Ijaz Gul Kakakhel
MAK

Law offices
Liberty Mall, University Road, Peshawar
Mobile: 0333 9215562
Email: afrasyab.advocate@gmail.com

بعدالت جناب جسٹس سرحدی لٹریچرل بیورو



Applicant 2018ء منجانب

نیاز بادشاہ بنام گورنمنٹ آف K.P ڈیپارٹمنٹ

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Accepted

28/10/18

المرقوم 28 ماہ اکتوبر 2018ء

وہ العیب کے لئے منظور ہے۔

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

In

Service Appeal No. 1431/2019

Niaz Badshah

Petitioners

VERSUS

Govt. of KPK through Chief Secretary & others

Respondents

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3.	Notification	I	7-8
4.	Supreme Court Judgment Maula Bux Shaikh V/S Chief Minister Sindh & others	II	9-27
5.	Govt. of KPK Irrigation Department Letter dated: 15 th Nov, 2019	III	28
6.	Govt. of KPK Irrigation Department Notification dated: 17 th Feb, 2011	IV	29-30

AUTHORITY LETTER

I, Secretary to Govt. of Khyber Pakhtunkhwa Irrigation Department do hereby authorize Mr. Hammad Saleem, Superintendent (Litigation), Irrigation Department to file comments and make statement before the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 1431/2019 filed by Niaz Badshah Vs Government of Khyber Pakhtunkhwa through Chief Secretary & others.


Secretary to Govt. of Khyber Pakhtunkhwa,
Irrigation Department

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 1431/2019

Niaz Badshah

(Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa

(Respondents)

Through Chief Secretary & others

JOINT PARAWISE COMMENTS ON BEHALF OF OFFICIAL RESPONDENTS

Respectfully sheweth:-

Preliminary Objections:-

1. That the appellant has got no cause of action.
2. That it is a matter of delegated legislation & cannot be challenged before the court of law.
3. That in light of the Supreme Court of Pakistan judgment in C.P. No. 78-K of 2015 announced on 03.10.2018, it has been categorically directed with vote of caution that government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act who does not possess qualification from accredited engineering institutions and his name is not registered as register engineer or professional engineer under the PEC Act and the appellant is not a professional engineer.
4. That appeal of the appellant barred by law.
5. That this Honourable court has got no jurisdiction.

ON FACT:

1. Correct to the extent that the appellant is entitled to all the rights enshrined in the Constitution.
2. Correct.
3. Correct.
4. Correct to the extent that 20% quota was reserved for promotion of Diploma Holder Sub Engineers to the post of Assistant Engineer (BS-17). The Irrigation Department has reserved 8% quota for B. Tech (Hons) Degree Holder Sub Engineers vide amendment dated 25.06.2012 through Standing Service Rules Committee, thereby curtailing the promotion quota of Diploma Holder Sub Engineers from 20% to 15% and 15% to 12% from Graduate Sub Engineers (Annex-I).

5. Correct. The Diploma Holder Sub Engineers challenged the amendment dated 25.06.2012, not to curtail their promotion quota from 20 to 15% in the Khyber Pakhtunkhwa Service Tribunal, Peshawar and the tribunal recommended the matter to the Irrigation Department for reconsideration vide its judgment dated 26.02.2014.
6. Correct, the Irrigation Department filed appeal before the worthy Supreme Court of Pakistan that the impugned amendment, giving 8% quota to B. Tech (Hons) Sub Engineers to the post of Assistant Engineer (BS-17) was issued in accordance with law with the plea to set aside the judgment of the Service Tribunal dated 26.02.2014 which was subsequently allowed on 24.11.2014 by setting aside the judgment of the Service Tribunal dated 26.02.2014.
7. Correct.
8. Incorrect. The Judgment of the Supreme Court of Pakistan for giving quota of 8% to the B. Tech (Hons) Sub Engineers was only for promotion to the post of Assistant Engineer (BS-17) and not for promotion to Executive Engineer (BS-18).
9. Incorrect. Para- 8 is reiterated.
10. Correct.
11. Correct.
12. Incorrect. The Supreme Court of Pakistan in C.P. No. 78-K of 2015 case titled "Maula Bux Shaikh" Versus Chief Minister Sindh and others announced on 03.10.2018 decided the case with the note of caution that government shall not allow or permit any person to perform professional Engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institutions and his name is not registered as registered engineer or professional engineer under the PEC Act **(Annex-II)**. In light of this decision, the departmental representation of the appellant was properly examined and the sister provinces were asked to apprise that what course of action has been taken in compliance of the Hon'able Supreme Court of Pakistan decision on 15th November, 2019 **(Annex-III)** and the reply is still awaited.
13. No comments.

ON GROUNDS:

- A. Incorrect. The action of the respondents is not violative of law and facts and the B. Tech (Hons) Degree holder Sub Engineers have already been given 8% quota for promotion to the post of Assistant Engineer (BS-17) vide amendment dated 25.06.2012.

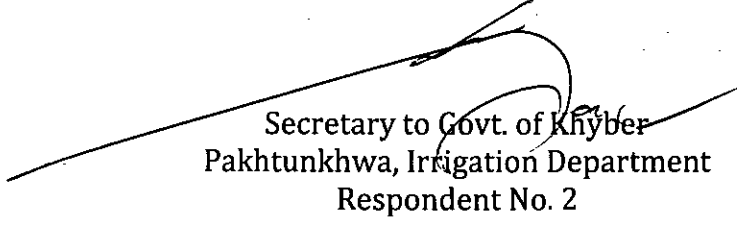
- 4
1
- B. No comments.
- C. Incorrect. The separate 8% quota for promotion to the post of Assistant Engineer (BS-17) has already been given to B. Tech (Hons) degree holder Sub Engineers.
- D. Incorrect. The Service Rules of Irrigation Department allow promotion to the Mechanical/Civil Engineers up to Superintending Engineer (BS-19) and for promotion to the post of Chief Engineer (BS-20) only Civil Engineers are eligible (**Annex-IV**).
- E. Incorrect. That B. Tech (Hons) qualification holders are registered by National Technology Council as Engineering Technologists whereas a BE/B.Sc Engineering degree holder is registered by the Pakistan Engineering Council, a statutory body created under Pakistan Engineering Council Act 1976. B. Tech (Hons) qualification is not equivalent to BE/B.Sc. Engineering degree as clarified by Pakistan Engineering Council (PEC) vide its letter number PEC/chmn/063/15 dated 10th December, 2015 and letter number Legal/Secy/063/15 dated 25th February, 2015. PEC being a statutory body established under Pakistan Engineering Council Act 1976 has the exclusive domain to decide, as to whether any particular qualification could be equated with another academic qualification as also upheld by the Supreme Court of Pakistan in the Suo Moto Review Petition No. 52 of 1993, decided on 5th June 1995 (PLD 1995 Supreme Court 701).
- F. Incorrect. As per Service Rules of Irrigation Department, the Engineers having degree of Mechanical Engineering are eligible to be promoted to the post of Superintending Engineer (BS-19) only and no discrimination has been done to the appellant.
- G. Incorrect. The Higher Education Commission of Pakistan has declared that the degree of B. Tech (Hons) is not similar to B.E/B.Sc Engineering degree. Both the degrees of BE/B.Sc Engineering and B. Tech (Hons) be considered as two distinct disciplines of knowledge in the field of engineering and technology and should run parallel to each other. However, B. Tech (Hons) degree holder may be treated at par incompatible with B.E/B.Sc Engineering Degree holders as far as grades, pay and promotions and other benefits are concerned.
- H. Correct. The appellant is registered with National Technology Council as Engineering Technologist but not with Pakistan Engineering Council as Professional engineer.
- I. Incorrect. The PEC Act 1976 is extended to the entire Pakistan.

- J. Incorrect. Although the Government Servants are not subordinates to PEC or its Authority but if government allow or permit any person to perform professional engineering work defined in the PEC Act who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as engineer or professional engineer under the PEC Act, such appointment would attract penalties prescribed in the PEC Act 1976.
- K. Correct. B. Tech (Hons) Degree holders get their degrees in technologies and not in engineering.
- L. No comments.
- M. No comments.
- N. No comments.
- O. Incorrect. There is no violation of fundamental rights as the B. Tech (Hons) Degree holders are Engineering Technologists and not engineers.
- P. Correct.
- Q. Correct. The B. Tech (Hons) Degree holders have already been given due right for promotion to the post of Assistant Engineer/Sub Divisional Officer (BS-17) vide amendment in the Service Rules notified on 25.06.2012.
- R. Incorrect. Para- Q is reiterated with the addition that every department has its own Service Recruitment Rules according to their requirement.
- S. Incorrect. Para G is reiterated.
- T. Correct. As per Service Rules of Irrigation Department the Civil Engineers are allowed promotion to BS-18 being professional engineers and the B. Tech (Hons) Degree holders are not considered being Engineering Technologists.
- U. No comments.
- V. Incorrect. The Service Rules are always framed through a Standing Service Rules Committee (SSRC) and with the approval of the competent authority i.e. Chief Secretary.
- W. No Comments. The appellant may prove his arguments in the court of law.
- X. That any other grounds will be raised at the time of arguments with the prior permission of this tribunal.

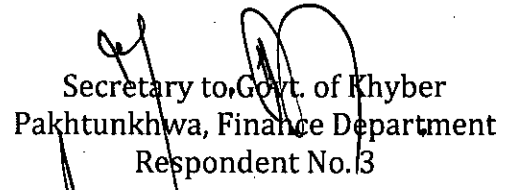
It is, therefore, requested that the service appeal, being devoid of merits, may be dismissed with cost.



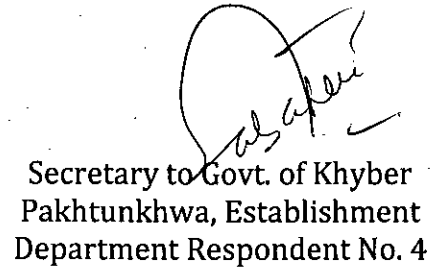
Chief Secretary, Khyber Pakhtunkhwa
Respondent No. 1



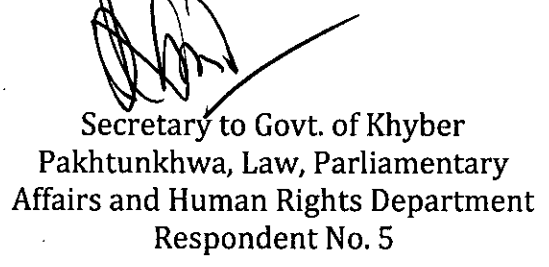
Secretary to Govt. of Khyber
Pakhtunkhwa, Irrigation Department
Respondent No. 2



Secretary to Govt. of Khyber
Pakhtunkhwa, Finance Department
Respondent No. 3



Secretary to Govt. of Khyber
Pakhtunkhwa, Establishment
Department Respondent No. 4



Secretary to Govt. of Khyber
Pakhtunkhwa, Law, Parliamentary
Affairs and Human Rights Department
Respondent No. 5

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII

GAZETTE

ANNEXURE

B

KHYBER PAKHTUNKHWA

Published by Authority.

PESHAWAR, MONDAY, 25TH JUNE, 2012.

**GOVERNMENT OF KHYBER PAKHTUNKHWA,
IRRIGATION DEPARTMENT.**

NOTIFICATION

Dated: 25th June, 2012.

No. SOE/IRRI/23-5/2010-11. — In pursuance of the provisions contained in sub-rule (2) of rule-3 of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Irrigation Department in consultation with the Establishment Department and the Finance Department, hereby directs that in this Department's Notification No. SO(E)Irri/23-5/73 dated 17.02.2011, the following amendments shall be made namely:-

AMENDMENTS

in the Appendix.

Against Serial No: 4, in column No. 5; for the existing entries, in clause (b), (c) and (d), the following shall be respectively substituted, namely:

(b) twelve percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers, having degree in Civil Engineering or Mechanical Engineering from a recognized university and have passed departmental grade B&A examination with five year service of such.

Note- For the purpose of Clause (b), a Joint seniority list of the Sub Engineers having Degree in Civil Engineering or Mechanical Engineering shall be maintained and their seniority is to be reckoned from the date of their 1st appointment as Sub Engineer.

(c) eight percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers, having Degree in B. Tech (Hons) and have passed departmental Grade B and A examination with five years service as such; and

Note- For the purpose of clause (c), a seniority list of Sub Engineers having Degree in B. Tech (Hons) shall be maintained and their seniority is to be reckoned from the date of their 1st appointment as Sub Engineer.

(d) fifteen percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub Engineers, who hold a Diploma of Associate Engineer in Civil, Mechanical, Electrical or Auto Technology and have passed departmental Grade B and A examination, within five years service as such.

Note- For the purpose of clause (d), a seniority list of Sub Engineers having Diploma of Associate Engineering in Civil Mechanical, Electrical or Auto Technology shall be maintained and their seniority is to be reckoned from the date of their 1st appointment as Sub Engineer.

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Note- The quota of clause (b), (c) and (d), above respectively shall be filled in by initial recruitment, if no suitable Sub Engineer is available for promotion;

- ii. against serial No. 5, in column No. 5, for the existing entries in clause (b), the following shall be substituted, namely:
- (b) fifteen percent by promotion, on the basis of seniority-cum-fitness, from amongst the Canal Inspectors, Work Takers, Gauge Readers, Surveyors, having Diploma of Associate Engineering in Civil, Mechanical, Electrical or Auto Technology from a recognized Board of Technical Education, having passed the departmental Grade-B and Grade-A examination, with at-least seven years service as such; and
- (c) five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Canal Inspectors, Work Takers, Work Munshi, Surveyors, and work superintendent, having passed the departmental Grade-B examination with at-least ten years service as such;
- iii. Against serial No. 7, in column No. 5, for the words "three years" the words "one year" shall be substituted;
- iv. against serial No. 9, in column No. 3, for the existing entry the following shall be substituted, namely:
- a. Bachelor Degree or equivalent qualification from a recognized University, and
b. A speed of 80 words per minute in short hand in English and 40 words per minute in English typing; and
- v. against serial No. 13, in column No. 5, in clause (b), the words and figures "and are under 45 years of age" shall be deleted.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT.

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SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Mr. Justice Gulzar Ahmed
 Mr. Justice Qazi Faez Isa
 Mr. Justice Sardar Tariq Masood

C.P.No.78-K of 2015

[On appeal against order dated 21.11.2014
 passed by the Sindh Service Tribunal,
 Karachi, in Appeal No.195 of 2014]

Maula Bux Shaikh & others

Petitioner(s)**VERSUS**

Chief Minister Sindh & others

Respondent(s)

For Petitioner No.1	: Mr. Salah-ud-Din Ahmed, ASC
For Petitioner Nos.2-3	: Mr. Rasheed A Rizvi, Sr. ASC
For Respondent Nos.1-4	: Mr. Sabtain Mehmood, Asstt:A.G. Sindh
For Respondent No.5	: Mr. Ghulam Haider Shaikh, ASC
For Respondent Nos.6-7 & 9	: Nemo
For Respondent Nos.8 & 12	: Dr. Muhammad Farough Naseem, ASC
For Rspdnt Nos.10-11, 13-17	: Mr. M. Aqil Awan, Sr. ASC
Date of Hearing	: 24.04.2018

JUDGMENT

GULZAR AHMED, J.— Maula Bux Shaikh, Petitioner No.1, **(the Petitioner)** had filed a Service Appeal before the Sindh Service Tribunal, Karachi, **(the Tribunal)** challenging Notification No.SOI(W&S)E/12-1/2005 dated 19.03.2014 to be ultra vires the Pakistan Engineering Council Act, 1976 **(PEC Act)**. The circumstances under which the Service Appeal was filed by the Petitioner are that he was employed as Sub Engineer BS-11 in the year 1985 in the Works and Services Department, Government of Sindh, Karachi. He was

promoted as Assistant Engineer BS-17 in the year 1997 and since then has been serving in such post in his said department. The case of the Petitioner is that he is a qualified engineer holding degree of Bachelor of Engineering. He has unblemished service record and is eligible for promotion to the post of Executive Engineer BS-18 but on account of the notification, referred to above, his chance for promotion as Executive Engineer BS-18 has been gravely diminished for the reason that said notification has provided 13% promotion quota to Diploma holders and 7% promotion quota to B.Tech (Hons) Degree holders for the post of Executive Engineer BS-18. The grievance of the Petitioner is that the post of Executive Engineer BS-18 being that of a purely professional engineering work could only be performed by a professional engineer holding accredited engineering qualification, as provided in the PEC Act.

2. We have heard learned ASCs for the parties at length and have gone through the record of the case. The learned ASCs for the parties have also filed their written note of arguments, which too have been perused by us.

3. The notification dated 19.03.2014 is as follows:

NOTIFICATION

No.SOI(W&S)E.W/12-1/2005: In pursuance of Sub-Rule (2) of Rule-3 of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules 1974 and in consultation with the Services, General Administration & Coordination Department, Government of Sindh, and in partial modification of this Department's Notification No. EI(C&W)1-34/81-84(86) dated 14.01.1987, the method, qualification and other conditions for appointment in respect of the post of Executive Engineer (BPS-18) (Civil/Mechanical/Electrical) in Works & Services Department, Government of Sindh mentioned in column-2 of the table below:-

TABLE

Name of the post with BS	METHOD OF APPOINTMENT
1	2
Executive Engineer (Civil/Mechanical & Electrical) (BPS-18)	<p>i) Eighty percent by promotion from amongst the Assistant Engineers B.E. in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology.</p> <p>ii) Thirteen percent by promotion from amongst the Diploma holder Assistant Engineers having Diploma in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology and</p> <p>iii) Seven percent by promotion from amongst the Assistant Engineers having B.Tech (Hons) degree in Civil, Electrical or Mechanical Engineering with atleast five years service in BPS-17 on seniority-cum-fitness basis with their respective technology.</p>

QAZI SHAHID PERVEZ
SECRETARY TO GOVT. OF SINDH"

4. In order to regulate the engineering profession, the Parliament has passed PEC Act on 10.01.1976. Section 2(ii) of the PEC Act defines accredited engineering qualification, which is as follows:

"accredited engineering qualification" means any of the qualification included in the First Schedule or the Second Schedule"

5. It is common ground that neither Diploma nor B.Tech (Hons) Degree are accredited engineering qualification for the reason that there is no reference to the Diploma and B.Tech (Hons) Degree in the accredited engineering qualification provided in the first and second schedule of the PEC Act. Thus, accredited engineering qualification is ascribed to those who hold Bachelor Degree in Engineering from

accredited Engineering Universities/Institutions in Pakistan and abroad.

6. Professional Engineer is defined in Section 2(xxiii), which is as follows:

"professional engineer" means a person who holds an accredited engineering qualification and after obtaining a professional experience of five years, whether working privately or in the employment of an engineering public organization, has passed the prescribed engineering practice examination and is registered as such by the Council.

7. Professional Engineering Work is defined in Section 2(xxv) as follows:

"professional engineering work" means the giving of professional advice and opinions, the making of measurements and layouts, the preparation of reports, computations, designs, drawings, plans and specifications and the construction, inspection and supervision of engineering works, in respect of—

(a) railways, aerodromes, bridges, tunnels and metalled roads;

(b) dams, canals, harbours, light houses;

(c) works of an electrical, mechanical, hydraulic, communication, aeronautical power engineering, geological or mining character;

(d) waterworks, sewers, filtration, purification and incinerator works;

(e) residential and non-residential buildings, including foundations framework and electrical and mechanical systems thereof;

(f) structures accessory to engineering works and intended to house them;

(g) imparting or promotion of engineering education, training and planning, designing, development construction, commissioning, operation, maintenance and management of engineering works in respect of computer engineering, environmental engineering, chemical engineering, structural engineering, industrial engineering, production engineering, marine engineering and naval architecture, petroleum and gas engineering, metallurgical engineering, agricultural engineering, telecommunication engineering, avionics and space engineering, transportation engineering, air-conditioning ventilation, cold storage works, system engineering, electronics, radio and television engineering, civil

engineering, electrical engineering, mechanical engineering and biomedical engineering etc;

(h) organizing, managing and conducting the teaching and training in engineering universities, colleges, institutions, Government colleges of technology, polytechnic institutions and technical training institutions;

(i) preparing standard bidding or contract documents, construction cost data, conciliation and arbitration procedures; guidelines for bid evaluation, prequalification and price adjustments for construction and consultancy contracts; and

(j) any other work which the Council may, by notification in the official Gazette, declare to be an engineering work for the purposes of this Act;"

8. Registered Engineer is defined in Section 2(xxvii) as follows:

"registered engineer" means a person who holds an accredited engineering qualification, whether working privately or in the employment of an engineering public organization and is registered as such by the Council. Registered Engineer shall perform all professional engineering works except independently signing design.

9. Section 10(1) of the PEC Act provides:

"The engineering qualifications granted by engineering institutions in Pakistan which are included in the First Schedule shall be the accredited engineering qualifications for the purposes of this Act."

10. While section 11(1) provides:

"The engineering qualifications granted by engineering institutions outside Pakistan which are included in the Second Schedule shall be accredited engineering qualifications for the purposes of this Act."

11. Section 27 of the PEC Act provides for penalties and procedure, which is as follows:

"27. Penalties and procedure.— (1) After such date as the Federal Government may, after consultation with the Council, by notification in the official Gazette, appoint in this behalf, whoever undertakes any professional engineering work shall, if his name is not for the time being borne on the Register, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) After the date appointed as aforesaid, whoever employs for any professional engineering work any person whose name is not for the time being borne on the Register shall be punishable, on first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and on a second or subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

(3) Whoever willfully procures or attempts to procure himself or itself to be registered under this Act as a registered engineer, professional engineer, consulting engineer, constructor or operator by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, and any person who assists him therein shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(4) Whoever falsely pretends to be registered under this Act, or not being registered under this Act, uses with his name of title any words or letters representing that he is so registered, irrespective of whether any person is actually deceived by such pretence or representation or not, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(5) No person undertaking any professional engineering work shall, unless he is registered under this Act, be entitled to recover before any court or other authority any sum of money for services rendered in such work.

(5A) No person shall, unless registered as a registered engineer or professional engineer, hold any post in an engineering organization where he has to perform professional engineering work.

(6) No court shall take cognizance of any offence punishable under this Act save on complaint made by, or under the authority of, the Council.

(7) No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act."

12. The main gist of the arguments of the learned ASC appearing for the petitioners is that the work of Executive Engineer BS-18 is strictly that of a Professional Engineer and it can only be performed by a Professional Engineer, who has engineering degree from an Accredited Engineering Institution of Pakistan or abroad as included in the first and second schedule of the PEC Act, Diploma holders and B.Tech

(Hons) Degree holders are not professional engineers and cannot perform work of a Professional Engineer and that law specifically provides penalties to those who perform professional engineering work without possessing accredited engineering qualification and registered as Professional Engineer by the Pakistan Engineering Council (**the Council**).

13. On the other hand, learned ASC appearing for the respondents have contended that this very issue has come up before this Court number of times and this Court has dealt with it time and again and held that in the matter of employment and promotion etc, the Government Institutions are legally entitled to take decisions as a matter of policy to grant promotion to employees in Engineering Public Organization who are Diploma holders in engineering and B.Tech (Hons) Degree holders.

14. We have noted that the Tribunal in the impugned judgment has referred to number of judgments of this Court and the point in issue in those judgments substantially also deals with the present controversy before us. Thus before dilating upon the matter, it is essential that we examine the judgments, which this Court has already delivered and are also referred in the impugned judgment of the Tribunal. The first case in line is a judgment of three members bench of this Court in the cases of PAKISTAN DIPLOMA ENGINEERS FEDERATION (REGISTERED) THROUGH ITS CHAIRMAN V/s FEDERATION OF PAKISTAN THROUGH SECRETARY MINISTRY OF WATER & POWER, GOVERNMENT OF PAKISTAN, ISLAMABAD & 9 OTHERS (1994 SCMR 1807). In this case the question involved was whether the Diploma Engineers employed in Pakistan Railways can be debarred from promotion to Grade-18 on the

ground that they are not registered as "professional engineers and consulting engineers" with Pakistan Engineering Council even though they were otherwise by reasons of their seniority etc eligible for promotion to Grade-18. While referring to the case of MUHAMMAD AZIM JAMALI AND 11 OTHERS V/S GOVERNMENT OF PAKISTAN, THROUGH SECRETARY/ CHAIRMAN, MINISTRY OF RAILWAYS, AND 33 OTHERS (PLJ 1992 Karachi 1) = (1992 PLC(CS) 637), where split decision was given by two Hon'ble Judges of Sindh High Court and ultimately it was referred to a Referee Judge for his opinion. This Court in dealing with the case before it relied upon the conclusion reached by the Referee Judge and quoted the same in the judgment as follows :

"16. The conclusion of the learned Chief Justice was expressed as follows:

"A careful reading of subsections (1) and (2) of section 27 of the Act will show that the penalties prescribed in the section are attracted only against those persons who are not registered under the Act but undertake any professional engineering work as defined in the Act. Similarly, the person who employs a person who is not registered under the Act, on a professional engineering work, is equally liable for punishment under the Act. The above provisions are wide enough to include the cases of those persons who may be employed in any private or Governmental organization and are called upon to undertake any professional engineering work. The provisions of the Act, regarding registration of professional engineer and consulting engineer, therefore, in my view, would not be applicable to the persons serving as engineer with the Railways, as in course, of their such employment they neither act as 'professional engineer' nor as 'consulting engineer'. However, if such persons undertake any professional engineering work as defined under the Act, then the provisions regarding registration under the Act will be attracted and they could also be punished in accordance with the provision of section 27 of the Act for violating the provision of the Act."

15. On the basis of such conclusion of the Referee Judge, this Court proceeded to make its own observation, which is as follows:

17. The above judgment of the High Court was not challenged either by the qualified engineers who held degrees from recognized Institutions of Pakistan nor by the diploma-holders but only by the Pakistan Engineering Council (which was one of the respondents in the Constitution Petition filed in the High Court). According to the Pakistan Engineering Council, the provisions of the Pakistan Engineering Council Act had not been correctly interpreted because the judgment of the majority in the High Court, it appeared to the Council had laid down that the Act applied to engineers engaged in professional engineering works in the private sector whereas the application of provisions of the Act according to them, could not be restricted only to the private practitioners alone.

18. We on the other hand after hearing Mr. Abid Hassan Minto learned Advocate for the appellant at considerable length consider that this is not a correct interpretation of the judgment of the High Court. The High Court has clearly stated that the provisions of the Act were wide enough to include cases of those persons engaged in professional engineering works whether employed in any private or Governmental organization, if they are called upon to undertake any professional engineering work, as defined under the Act. In fact in the connected case C.A.No.31 of 1992 a Committee of Secretaries constituted by the Punjab Government correctly summed up the true position obtaining in the Act as follows:--

"The Committee was of the view that the Government could appoint a non-graduate engineer to a post in any grade but if the post involved performance of professional engineering work such appointment would attract penalties prescribed in the Act.

The finding of the Referee Judge in this case is to the same effect and in our opinion this finding is quite correct."

16. The next case in line is a judgment of five member bench of this Court in the case of FIDA HUSSAIN V/S THE SECRETARY, KASHMIR AFFAIRS AND NORTHERN AFFAIRS DIVISION, ISLAMABAD & ANOTHER (PLD 1995 Supreme Court 701). In this case facts were that petitioner was appointed as Overseer/Sub-Engineer in northern area PWD in

1971. The Federal Government, in order to encourage the diploma holders to improve their academic qualification resolved to prescribe courses namely B.Tech (Pass) and B.Tech (Hons). The later was treated as equivalent to B.Sc. (Engineering) and Bachelor of Engineering for the purpose of promotion. Petitioner having passed B.Tech (Pass) and B Tech (Hons) was denied promotion in BPS-17 for the reasons that B.Tech (Hons) was not recognized by Pakistan Engineering Council as equivalent to B.Sc. (Engineering) Degree. Petitioner filed Service Appeal, which was dismissed. The Appeal filed by the petitioner before this Court was also dismissed. The petitioner then applied for review, which was allowed and the judgment dismissing the Civil Appeal was recalled and his appeal was allowed with directions to consider the petitioner's case of promotion to BS-17. The Court while allowing relief to the petitioner observed as follows:

"9. In this regard, we may point out that it is the domain of the Government concerned to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one Grade to another higher Grade and whereas it is in the domain of the Pakistan Engineering Council to decide, as to whether a particular academic qualification can be equated with another academic qualification, but it has no power to say that the civil servants/employees holding particular academic qualification cannot be promoted from a particular Grade to a higher Grade. The main object of the Act as pointed out by one of us (Ajmal Mian, J.) and Saiduzzaman Siddiqui, C.J. (as he then was) in the above High Court judgment is to regulate the working of professional engineers and consulting engineers and not to regulate the qualification or the working of the engineers in the Government or semi-Government departments. The definitions of the terms "professional engineer" and "professional engineering work" given in clauses (j) and (k) of section 2 of the Act are to be read together and, therefore, as a corollary to the same, it must follow that the term "professional engineering work" as defined in clause (k) of section 2 of the Act is to be performed by a professional engineer as defined in clause (j) thereof, which is evident from section 8 of the Act, which defines the functions of the Pakistan Engineering Council as under:-

8. Functions of the Council.--- The following shall be the functions of the Council, namely:--

- (a) maintenance of a Register of person qualified to practice as professional engineers and consulting engineers;
- (b) recognition of engineering qualifications for the purpose of registration of professional engineers and consulting engineers;
- (c) removal of names from the Register and restoration to the Register of names which have been removed;
- (d) laying down of standards of conduct for the members;
- (e) safeguarding the interest of the members;
- (f) promotion of reforms in the engineering profession;
- (g) management of the funds and properties of the Council;
- (h) Promotion of engineering education and review of courses of studies in consultation with the Universities;
- (i) levy and collection of fees from applicants for registration or temporary licences and members;
- (j) exercise of such disciplinary powers over the members and servants of the Council as may be prescribed;
- (k) formation of such committees as may be prescribed; and
- (l) performance of all other functions connected with, or ancillary or incidental to, the aforesaid functions."

A perusal of the above quoted section shows that the Pakistan Engineering Council is vested with the functions to regulate the persons qualified to practice as professional engineers and consulting engineers and not persons who are employed in the Government or semi-Government organisations. If the Government employs a professional engineer as defined in the Act for performing professional engineering work as envisaged by the Act in above clause (k) of section 2, the provisions of the Act would be attracted and not otherwise.

10. Reverting to the merits of the present case, as pointed out hereinabove, that the petitioner pursuant to the above decision of the Government of Pakistan dated 26.10.1973 passed his B.Tech (Pass) in 1977 and B.Tech (Honours) in March, 1981, from the NED University Karachi, and, therefore, acted upon the above representation of the Government. In this view of the matter, it is not just and fair not to consider the petitioner

for promotion to BPS-17 keeping in view the admitted fact that a number of other civil servants/employees in the same department in the same position have been promoted by the departments/organisations concerned. In this behalf, it may be pertinent to refer to the case of Mukhtar Ahmad and 37 others v. Government of West Pakistan through the Secretary, Food and Agriculture, Civil Secretariat, Lahore and another (PLD 1971 SC 846). The fact of the above case were that the persons possessing the qualifications mentioned in Rule 7 of the West Pakistan Agricultural Engineering Service (Class II) Rules, 1963 were not available. The Government launched a scheme for training of Assistant Agricultural Engineers, whereunder 46 Graduates in B.Sc. Agriculture were to be selected for appointment as Assistant Agricultural Engineers after their successful completion of two years' diploma course at an Agricultural University. The above scheme was discussed by the government with the Public Service Commission. The candidates selected by the Public Service Commission, who were about to complete their training of two years, were informed by the government that they would have to appear again before the Public Service Commission to be selected for appointment to the posts of Assistant Agricultural Engineers (Class-II). The candidates asserted that after the completion of their training they were entitled to be appointed as Assistant Agricultural Engineers (Class-II) in terms of the offer made to them and they could not be required to appear again before the Public Service Commission for such appointment. On the other hand, the Government contended that the candidates did not possess the qualification prescribed by Rule 7 of the West Pakistan Agricultural Engineering Service (Class II) Rules, 1963, for appointment to such posts. The matter came up for hearing before this Court in the form of an appeal with the leave of this Court filed by the candidates against the judgment of a Division Bench of the erstwhile High Court of West Pakistan. The same was allowed and inter alia the following was concluded:--

"The offer of the Government and its acceptance by the appellants constituted a valid agreement and they Governor's order dated the 1st July, 1965 provided the authority for such an agreement. This agreement is capable of being enforced in law. The Government was both competent and obliged to implement that agreement. When the Governor's order, dated the 1st July, 1965, provided a special authority for recruitment to the 46 posts of Assistant Agricultural Engineers, rule 7 of the Recruitment Rules was not applicable in this case."

11. The above case supports the petitioner's stand. Another aspect which escaped notice of this Court in the judgment under review is that some of the other civil servants/employees placed in the same position as the petitioner was had been considered for promotion to BPS-17 and in fact were promoted, whereas the petitioner was

denied the above benefit which amounted to violation of inter alia Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973. In this regard, reference may be made to the case of I.A. Sherwani and others v. Government of Pakistan through Secretary, Finance Division, Islamabad and others (1991 SCMR 1041).

12. The judgment of this Court in the case of Muhammad Siddique Nasim (supra) relied upon by the Tribunal is distinguishable for more than one reason, firstly, in the above case the notification of the Government of Punjab dated 8.2.1961 equivalising B.Tech (Honours) with B.Sc Engineering degree was withdrawn on 15.03.1985, whereas the petitioner received degree of B.Tech (Honours) in June, 1985, i.e. after the withdrawn of the notification whereas in the present case, admittedly the petitioner passed his B.Tech (Honours) in March, 1981, before the Pakistan Engineering Council through its Registrar's above letter dated 24.4.1984 stated that there was typographical error in the above-quoted portion of its Registrar's letter dated 30.04.1981. Secondly, in the judgment in the case of Pakistan Diploma Engineers Federation (Registered) through its Chairman (supra), this Court affirmed the majority view of the High Court of Sindh in the case of Muhammad Azim Jamali (supra), in which it has been held that the provisions of the Act are applicable only to professional engineers and consulting engineers who are in practice and not to the persons working in the Government departments, autonomous bodies, local authorities and private firms or companies.

13. We may again observe that it is exclusively within the domain of the Government to decide whether a particular qualification will be considered sufficient for promotion from a particular Grade to a higher Grade and it is also within the domain of the Government to change the above policy from time to time as nobody can claim any vested right in the policy. However, it cannot abdicate its power to decide the above question in favour of a corporate body which is not in its control nor it can act in a manner which may be violative of Article 25 of the Constitution on account of being discriminatory. It is still open to the Government for future to provide that academic qualification of B.Tech (Honours) will not be considered sufficient for promotion from BPS-16 to BPS-17 if the same does not violate the above principle."

17. Next case is a judgment of two members bench of this Court in the case of MUHAMMAD YOUNUS AARAIN V/S PROVINCE OF SINDH THROUGH CHIEF SECRETARY, SINDH, KARACHI & 10 OTHERS (2007 SCMR 134). The case before the Court was of promotion to BS-20 by a Diploma holder employee. The Court dealt with the subject and observed as follows:

"7. The basic qualification for a professional engineer under the law is B.Sc. degree in engineering from a recognized institution in Pakistan and diploma in engineering is not a recognized qualification for a professional engineer in terms of PEC Act, 1976. The service rules governing the service of the petitioner (SCUG Service Rules, 1982) and the promotion policy of the Government of Sindh, would neither override the provisions of the above Act nor relax the requirement of basic qualification of professional engineer for a promotion to BPS-20 in the engineering branch of Government of Sindh. The relevant provision of SCUG Service Rules, 1982, is reproduced hereunder:--

"V-Engineering Branch.

1. Grade 20 By selection on merit from among the members of the service in Grade-19 of the Engineering Branch with at least 17 years experience as such in Grade-17 and above."

8. The above rule envisages clearly that a person can be considered for promotion to BPS-20 in the Engineering Branch of Government of Sindh, subject to fulfilment of the condition of basic qualification of a professional engineer prescribed under Pakistan Engineering Council Act, 1976 and a diploma holder being not a professional engineer in terms of PEC Act, 1976 cannot hold a post carrying responsibilities of a qualified professional engineer. The eligibility of a person for promotion from BPS-19 to BPS-20 in the Engineering Department of Government of Sindh is subject to the fulfilment of the requirement of basic qualification with requisite experience as provided in SCUG Service Rules, 1982 in the relevant field therefore, neither any concession could be given to the petitioner in the matter of his eligibility to hold the post in BPS-20 nor the requirement of basic qualification could be relaxed by the Court or by Selection Board. The careful examination of rules on the basis of which petitioner asserted the claim of promotion to BPS-20 against the post carrying responsibilities of a professional engineer, would show that his claim was without any substance and that a diploma holder on the basis of his experience alone, would stand at par to a person registered as professional engineer with Pakistan Engineering Council."

18. The other case is a judgment of three members bench of this Court in the case of NAZIR-UL-HASAN & 2 OTHERS V/S SYED ANWAR IQBAL & OTHERS (2014 SCMR 1827). In this case, respondent No.1 was working as an Assistant Director BS-17. The petitioners were senior to him and were promoted to BS-18 despite the fact that petitioners were holding qualification of Diploma whereas respondent

No.1 was Bachelor of Engineering (Electrical). The respondent No.1 challenged the promotions of petitioners in the High Court. The High Court set aside all promotions of petitioners on the ground that they did not hold valid engineering degree. This Court in the reported judgment has dealt with the matter and observed as follows:-

"6. Admittedly the petitioners were Assistant Directors in the respondent Authority with at least 5 years service in the relevant field and hence in our opinion they fulfill the requirement. It would be seen that when the petitioners were considered for promotion in 2012 the rules in force were the Pakistan Standards Institution Recruitment Rules for class one posts wherein per rule 5 the post of deputy Directors to be filled in by promotion could be done from amongst Assistant Directors category one with at least 5 years service in the Institution. Nowhere in the said rules was it provided that they would be professional engineers or for that matter even diploma holders. If fact such condition is prescribed in rule 6 which provides for direct appointments whereby per the schedule to the same an Assistant Director must hold a Master's Degree in Science or Bachelors Degree in Engineering in the specified field from a recognized university with at least 3 years experience in that field etc. Admittedly, the petitioners were appointed by promotion and hence in our opinion no such condition can be placed upon them as in the case of a direct appointees. Insofar as the case of Muhammad Younus Aarain (supra) is concerned, the same is distinguishable on facts as therein it was found that under Sindh Council Unified Grades Services Rules the basic qualification for promotion to BS-20 was that the candidates should have B.Sc. Degree in Engineering. As observed above this is not the case in the present matter. It would further be seen that now per section 26 of the Pakistan Standards and Quality Control Authority Act, 1996 rules have been framed which have been notified in the official gazette on 15th May, 2013. Under Rule 5 promotion to the post in BS-1 to 19 shall be made on the basis of seniority-cum-fitness etc. and he or she should also fulfil the conditions contained in schedule to the rules according to which for promotion to the post of Deputy Director Technical the eligible person would be an Assistant Director Technical and he should have 5 years experience in BS-17 in technical matters. Nowhere has it been prescribed that he or she should be a qualified engineer.

7. In the circumstances, we find that the impugned order has unnecessarily been influenced by the comments of the Pakistan Engineering Council that no post carrying any Engineering responsibility could be entrusted to non-engineering graduates. In our opinion, it is for the department/institution itself to determine as to whether the, persons in its service are fit to hold a particular position. In the present case it has been done by the

authority and rules have been framed thereunder which have been followed by the promotes/petitioners. Consequently the impugned order is set aside and the promotion of the petitioners is upheld."

19. On examination of above case law, we note that nowhere in the judgments, the government power to prescribe for qualification and other conditions of service for promotion to a post has been assailed nor the judgments have put any sort of embargo on the government in prescribing the qualification and other conditions of service for a post for the purpose of promotion. Having said this, the judgments as discussed above, have rather focused on the government power in this regard to be unfettered to the extent that it is not in derogation of any law or provisions of the Constitution.

20. Further, the main principle that is deductible from the above judgments of this Court is that it is the domain of the Government to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one grade to another higher grade and whereas it is in the domain of the Pakistan Engineering Council to decide whether a particular academic qualification can be equated with another academic qualification but it has no power to say that the civil servants/employees holding particular academic qualification cannot be promoted from a particular grade to a higher grade. Thus on the basis of above pronouncements of this Court, it is clear that the notification dated 19.03.2014 cannot be validly or justifiably challenged on the ground that it impinges or infringes upon any of the provisions of PEC Act, 1976 and thus would be ultravires. No such finding can justifiably be recorded in that as it has been laid down quite empathetically that the government exercises its own power under the domain of law with regard to promotion of civil

servants/employees under Sindh Civil Servants Act, 1973 and Rules made thereunder while PEC Act does not overreach or put an embargo upon the government in the matter of prescribing of qualification and other conditions of service of civil servants/employees for their promotion to higher grade. Yet again, we note that although the vires of notification dated 19.03.2014 has been challenged but we observe that this very notification has been issued under sub-rule (2) of Rule 3 of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, which rules have been made under section 26 of Sindh Civil Servants Act, 1973. Neither rule 3(2) of said rules nor section 26 of the Act, 1973 have been challenged nor their vires called in question before us. Thus from this also it is quite apparent that the petitioner does not challenge the government power for prescribing qualification and conditions of service of civil servants/employees for their promotion to higher grade. In any case, we note that the provisions of PEC Act nor the rules and regulations made under it will operate as bar on government to prescribe for qualification and other conditions of service of civil servants/employees for promotion to higher grade.

21. The PEC Act as its preamble itself shows so also reading of the whole Act shows that it essentially deals with regulations of engineering profession in it, *inter alia*, it prescribes for qualification of professional engineers, maintenance of register of professional engineers and accrediting of engineering universities etc and not as a regulator of employment be that be of government service or in the private service. The reasons for it could be found that all sort of engineering work could not be and may not be a professional engineering work for performance of which professional engineers are required. For example, technician, mechanic, draftsman, foreman,

supervisor and overseer etc at best could be a skilled workman who may work independently or under the supervision of professional engineer and for such technician, mechanic, draftsman, foreman, supervisor and overseer the employer may not require holding of professional engineering degree. However, if the person is required to perform any of professional engineering work as defined under the PEC Act, the provisions of this Act will come into operation for ensuring as the work of professional engineer can and only be performed by professional engineer as recognized by PEC Act. The professional engineering work has been clearly defined under section 2(xxv) of the PEC Act which has already been reproduced above and lays down in sufficient details the works which are noted to be as professional engineering works and such works as mandatorily required by the PEC Act to be performed by a professional engineer possessing accredited engineering qualification from accredited engineering institutions in Pakistan and abroad with experience and passing of test of the Council and no other person is allowed to perform professional engineering works be that be a diploma holder or B.Tech. degree holder. This aspect of the matter has been substantially addressed by the PEC Act itself when making provision of section 27(5A) that "no person shall unless registered as a registered engineer or professional engineer, hold any post in an engineering organization where he has to perform professional engineering work." Thus professional engineering work can only be performed by a person who is registered as registered engineer or professional engineer and both registered engineer and professional engineer in terms of the PEC Act are by law required to possess accredited engineering qualification as prescribed by the PEC Act from accredited engineering institution.

22. We may further observe that section 27 of the PEC Act provides for penalty for a person who undertakes any professional engineering work if his name is not borne on the Register but it also makes the employer who employs for any professional engineering work any person whose name is not, for the time being, borne on the Register to perform professional engineering work, shall also be liable for penalty as prescribed in the PEC Act itself. Thus both civil servant/employee and their employer would be liable to penalty as provided under section 27 if they undertake or allow a person to undertake professional engineering work whose name is not borne on register under PEC Act.

23. The net result of above discussion is that this petition fails. It is dismissed and leave refused, however with note of caution that government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as a registered engineer or professional engineer under the PEC Act.

JUDGE

JUDGE

Bench-IV
Islamabad
 Hashmi
 APPROVED FOR REPORTING

JUDGE

Announced in open Court on 03.10.2018

JUDGE



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

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No. SO(E)/Irr./23-5/ServiceRules/2019
Dated Peshawar the 15th November, 2019

To

1. The Secretary to Govt. of Punjab
Irrigation Department
2. The Secretary to Govt. of Sindh
Irrigation Department
3. The Secretary to Govt. of Balochistan
Irrigation & Power Department

**Subject: JUDGMENT OF HON'BLE SUPREME COURT OF PAKISTAN
DATED 03.10.2018 REGISTERED B-TECH (MALULA BUX SHAIKH
& OTHERS VS CHIEF MINISTER SINDH AND OTHERS)**

Dear Sir,

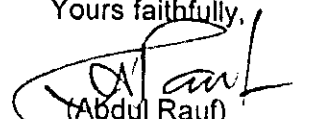
I am directed to refer to the subject noted above and to state that Mr. Maula Bux, a graduate Sub-Engineer promoted to Assistant Engineer (BS-17) in 1997, filed a writ petition C.P.No.78-K of 2015 in the Hon'ble Supreme Court of Pakistan and challenged Sindh Government notification No.SOI(W&S)E.W/12-1/2005 dated 19.03.2014 (Copy enclosed), whereby Sindh Government reserved 13% quota for Diploma Holders and 7% quota for B.Tech (Hons) for their promotion to (BS-18) to work against the professional engineering works in light of the provision of PEC Act 1976, negation of which is punishable under PEC Act 1976. The Hon'ble Supreme Court of Pakistan on dated 03.10.2018 decided the case with the following remarks:-

"The net result of above discussion is that this petition fails. It is dismissed and leave refused, however with note of caution that government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as a registered engineer or professional engineer under the PEC Act."

In light of the above decision, Assitant Engineers (BS-17), possessing degree of B.Tech (Hons) are requesting for promotion quota in BS-18 and Engineering Degree Holders Engineers are pressing hard to revert B.Tech Degree Holders from BPS-17 even.

It is requested that this Department may be apprised that what course of action has been taken in compliance of the above Hon'ble Supreme Court of Pakistan decision please.

Yours faithfully,


(Abdul Rauf)
Section Officer (Estt:)

Encl: as above

Endst: No and date even

Copy of the above is forwarded to the:-

1. PS to Secretary Irrigation Department, Khyber Pakhtunkhwa.
2. PA to Additional Secretary Irrigation Department, Khyber Pakhtunkhwa


Section Officer (Estt:)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, SATURDAY, 2ND APRIL, 2011.

GOVERNMENT KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT,

NOTIFICATION

NO.SO(E)IRR:/23-5/73: In pursuance of the provisions contained in sub rule (2) of Rule-3 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all previous rules and notifications, issued in this behalf, except Notification No.SO(E)IRR:/23-5/73 dated 20-12-2006, the Irrigation Department, in consultation with the Establishment Department and the Finance Department hereby lays down, the method of recruitment, qualification and other conditions specified in columns No. 3 to 5 of the Appendix (pages 1 to 5) to this Notification which shall be applicable to the posts in column No. 2 of the Appendix.

Secretary to Government of the Khyber Pakhtunkhwa Province
Irrigation Department.

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Printed and published by the Manager,
Staty. & Ptg. Dept., Khyber Pakhtunkhwa, Pesh.

APPENDIX

S#	Nomenclature of Post	Qualification for appointment	Age Limit	Method of recruitment
1	2	3	4	5
PART-I-ENGINEERING STAFF				
1.	Chief Engineer/ Director General (BPS-20)			By selection, on merit from amongst the Senior Superintending Engineers and Directors with at least seventeen years service in BPS-17 and above, possessing Degree in B.E/BSc Engineering (Civil) from a recognized University
2.	Superintending Engineer/Director (BPS-19)			By promotion, on the basis of seniority cum fitness, from amongst the Executive Engineers/Deputy Directors with at least twelve years service in BPS-17 and above
3.	Executive Engineer/ Deputy Director (BPS-18)			By promotion, on the basis of seniority cum fitness, from amongst the Sub Divisional Officers, Assistant Engineers and Assistant Directors possessing Degree in B.E/BSc Engineering (Civil or Mechanical) from a recognized University, with at least five years service as such, and have passed the Professional or Revenue Examination under the prescribed rules
4.	Assistant Engineer/Sub Divisional Officer/ Assistant Director (BPS-17)	BE/BSc Degree in Civil/Mechanical Engineering from a recognized University	21 to 32 years	a. Sixty five percent by initial recruitment b. Ten percent by promotion, on the basis of seniority cum fitness, from amongst the Sub Engineer's who has acquired during service degree in Civil or Mechanical Engineering from a recognize university; c. five percent by promotion, on the basis of seniority cum fitness, from amongst the Sub Engineer's who joined service as degree holders in Civil/Mechanical Engineering and d. Twenty percent by promotion, on the basis of seniority cum fitness from amongst the Sub Engineer's, who hold a diploma of Civil, Mechanical, Electrical or Auto Technology and have passed Departmental Grade A examination with ten years service as such Note: - Provided that where candidate under Clause (b) & (c) above is not available for promotion, the vacancy shall be filled in by initial recruitment
5.	Sub Engineer (BPS-11)	Diploma of Associate Engineering in Civil/Mechanical/Auto/Electrical Technology from a recognized Institute.	18 to 30 years	a. Eighty percent by initial recruitment, and b. Twenty percent by promotion, on the basis of seniority cum fitness, from amongst the Canal Inspectors, Work Takers, Gauge Readers, Surveyors and other establishments having Diploma of Associate Engineering in Civil, Mechanical, Electrical or Auto Technology from a recognized institute or Board of Technical Education of Government with at least ten years service, and have passed the departmental Grade B and Grade A examination



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

Dated Peshawar the 24th August, 2021

NOTIFICATION

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

AMENDMENTS

In the APPENDIX,-

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

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

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


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

**Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department**

Endst: No and date even

Copy of the above is forwarded:-

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


(ABDUL RAUF)
Section Officer (Estt)



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, SATURDAY, 2ND APRIL, 2011.

GOVERNMENT KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT.

NOTIFICATION

Dated Peshawar the 17th February, 2011

NO.SO(E)IRR/23-5/73: In pursuance of the provisions contained in sub-rule (2) of Rule-3 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all previous rules and notifications, issued in this behalf, except Notification No.SO(E)IRR/23-5/73 dated 20-12-2006, the Irrigation Department, in consultation with the Establishment Department and the Finance Department hereby lays down the method of recruitment, qualification and other conditions specified in columns No. 3 to 5 of the Appendix (pages 1 to 5) to this Notification which shall be applicable to the posts in column No. 2 of the Appendix.

Secretary to Government of the Khyber Pakhtunkhwa Province
Irrigation Department.

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