

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 586/2023

Khushboo Peshawar
Darcy No. 11595
Date 5-3-24

Syed Saadat Ali Shah

VS

Chief Secretary KP etc.

INDEX

S.NO	DOCUMENTS	ANNEXURE	PAGE
1	Memo of rejoinder	--	1- 3
2	Supporting documents.	R-1	4 - 14

APPELLANT

THROUGH:

M. Asif Yousafzai

M. ASIF YOUSAFZAI

Advocate Supreme Court

Syed Nauman Ali Bukhari

SYED NAUMAN ALI BUKHARI

Advocate High Court

HILAL ZUBAIR ADVOCATE

Peshawar.

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 586/2023

Syed Saadat Ali Shah

VS

Chief Secretary KP etc.

REJOINDER ON BEHALF OF APPELLANT.

PRELIMINARY OBJECTIONS:

- 1 TO 5. All objections raised by the respondents are incorrect, baseless and do not hold ground. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Admitted correct by the respondents, however, it is added that every cadre in the Govt: has been given their due share in PMS quota, especially illegal increased quota to Revenue staff, but in case of appellant's cadre a minimized chance has been given which compelled the appellant to challenge the rules on the grounds of Organizational Injustice.
2. Incorrect and misconceived. Each cadre mentioned in the PMS Rules has their own progressive service structure but despite that they have been given maximum strength of promotion on irrational basis and without applying intelligible differentia. It is also added that even upgradations were also given to them but despite that the appellant has been dealt discriminatorily and in violation of Article- 2A,4,9,25 and 38(e) of the Constitution. In reply to this para, the respondents have not shown that how many other cadres employees have been now PMS Officer. Even the impugned increase to Revenue Deptt: and DCs offices are against the spirit of judgment of the Apex Court rendered in Hussain Hayat case. Copies of some of the orders and organogram are attached as Annexure – R-1.
3. Incorrect and misconceived. The latest amendments have never been made in accordance with the procedure laid down in the APT Rules,

1989. The ratios mentioned in this para of appeal are not justified by the respondents.

4. Misconceived and not replied according to the content of para-4 of appeal. As stated above every cadre mentioned in the PMS Rules has their own promotion channels, also upgraded twice but despite that Commissioner and DC offices employees have been given increased quota in violation of judgment of Apex Court rendered in Hussain Hyat Case. More over the figures mentioned in this para of appeal are not denied by the respondents.
5. Admitted correct by the respondents. It is added that the appellant's cadre has been discriminated which is the violation of Article 2A, 4,25 and 38(e) of the Constitution. Thus being discriminatory and irrationally distributed based rules are liable to be struck down.
6. Incorrect while para-6 of the appeal is correct keeping in view the facts and figures given in above paras of the appeal which are not denied by the respondents.
7. Incorrect and misconceived. The para-7 of appeal is correct.
8. Incorrect and misconceived. The para-8 of the appeal is correct.
9. The contents of para-9 of appeal are admitted by the respondents by stating the fling of appeal and not replied. This conduct of the respondent is in violation of the judgment of the Apex Court, reported as 2011 SCMR-01.

GROUND:

A to M. All paras of grounds of appeal are correct while the response of the respondents is incorrect. The appellant has been treated discriminately, and has been compelled to face Organizational Injustice which has been deprecated by the Apex Court. The impugned Rules are discriminatory, irrational and not based on intelligible differentia, therefore, liable to be struck down.

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

Daraz Khan
APPELLANT

THROUGH:

M. Asif Yousafzai

M. ASIF YOUSAFZAI

Advocate Supreme Court

Syed Nauman Ali Bukhari

SYED NAUMAN ALI BUKHARI

Advocate High Court

Hilal Zubair Advocate

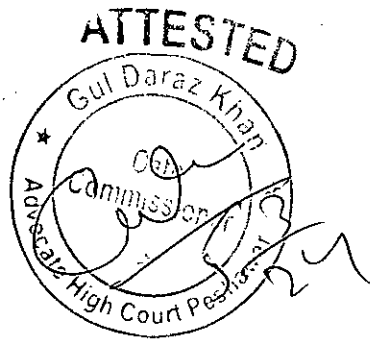
HILAL ZUBAIR ADVOCATE

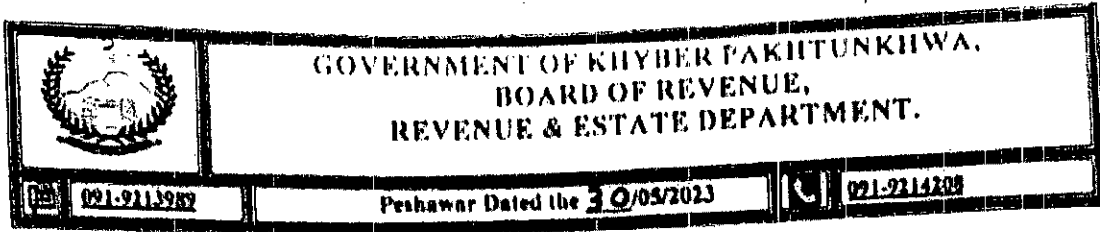
Peshawar.

AFFIDAVIT.

It is affirmed on Oath that the contents of this rejoinder are true and correct and nothing has been concealed.

Daraz Khan
DEPONENT





④
R I

NOTIFICATION

No. Estt./SSRC/Tehsildar/2022-23/13218-3) In pursuance of provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Revenue & Estate Department in consultation with the Establishment Department and the Finance Department is pleased to direct that in this Department Notification No. 32102/Admn:/135/SSRC, dated 26.12.2008, the following further amendments shall be made, namely:

AMENDMENTS

In the APPENDIX, -

(a) against Serial No. 1, in Column No. 7, -

- (i) in clause (a), the word "and" and semi-colon shall be replaced by the colon and thereafter, the following shall be inserted, namely:

"Note: After appointment, on recommendation of the Public Service Commission, the Tehsildars shall undergo the Pre-Service Training of Tehsildars for a period of six (06) months which shall include four (04) months training at the Pakistan Provincial Services Academy (PPSA), one months Settlement Training and one months Revenue Training, under the West Pakistan Tehsildar and Naib Tehsildar Departmental Examinations and Training Rules, 1969;"

- (ii) for clause (b); the following shall be substituted, namely:

"(b) fifty-five percent (55%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Naib Tehsildar, District Revenue Accountant, District Kanungo and Sub-Registrar with at least three (03) years service as such.

Note: The official promoted from the cadre of Sub-Registrar and District Revenue Accountant shall undergo six (06) months Revenue & Settlement Training as per schedule of the Department;"

- (iii) after clause (b), as so amended, the following new clause shall be inserted, namely:

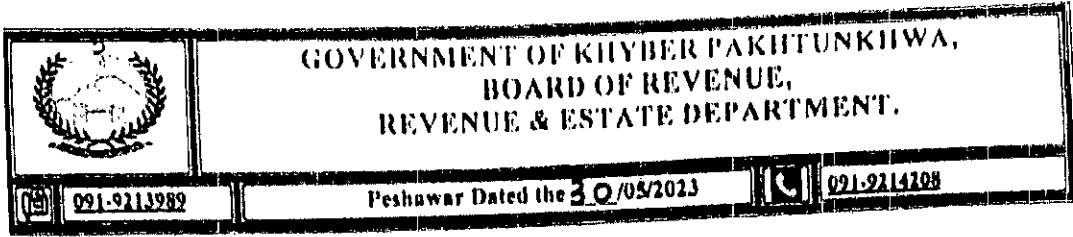
(b-i) five percent (05%) by selection, on merit on the basis of competitive examination, to be conducted by the Public Service Commission, from amongst the holders of the posts of Assistant, Senior Scale Stenographer, Computer Operator, Junior Scale Stenographer, Senior Clerk, Junior Clerk, Naib Tehsildar, District Kanungo, District Revenue Accountant and Sub Registrar in the offices of the Board of Revenue, Director Land Records, Commissioners and Deputy Commissioners, who have Second Class Bachelor's Degree from a recognized University or its equivalent qualification and having at least three (03) years service as such.

Note: After appointment, on recommendation of the Public Service Commission, the Tehsildars shall undergo the Pre-Service Training of Tehsildars for a period of six (06) months which shall include four (04) months training at the Pakistan Provincial Services Academy (PPSA), one month Settlement Training and one month Revenue Training, under the West Pakistan Tehsildar and Naib Tehsildar Departmental Examination and Training Rules, 1969;"

- (iv) for clause (d), the following shall be substituted, namely:

"(d) five percent (05%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Assistant, Senior Scale Stenographer and Computer Operator in the offices of the Board of Revenue and Director Land Records with at least five (05) years service as such."; and

Attested to be true
Copy



5

(b) against Serial No. 2, in Column No. 7,-

(i) in clause (a), for the word "and" and comma shall be replaced by the colon and thereafter, the following Note shall be inserted, namely:

"Note: After appointment, on recommendation of the Public Service Commission, the Naib Tehsildars shall undergo the Pre-Service Training of Naib Tehsildars for a period of six (06) months which shall include four (04) months training at the Pakistan Provincial Services Academy (PPSA), one month Settlement Training and one month Revenue Training, under the West Pakistan Tehsildar and Naib Tehsildar Departmental Examinations and Training Rules, 1969;"

(ii) for clause (b), the following shall be substituted, namely:

"(b) forty percent (40%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Kanungo with at least three (03) years service as such, who have undergone one (01) month mandatory training in Revenue Academy to be conducted by the Board of Revenue.

Note: Those Kanungos who have already passed Departmental Exam shall not undergo one-month training;"

(iii) after clause (b), as so amended, the following new clause, shall be inserted, namely:

"(c) six percent (06%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of,-

(i) the Senior Clerk with at least five (05) years accumulative service as Junior Clerk and Senior Clerk in the offices of the Board of Revenue, Director Land Records, Divisional Commissioners and Deputy Commissioners; and

(ii) the Junior Scale Stenographer with at least five (05) years service in the offices of the Board of Revenue, Director Land Records, Divisional Commissioners and Deputy Commissioners:

Provided that for the purpose of promotion, a joint seniority list of Senior Clerks and Junior Scale Stenographers, shall be maintained at Board of Revenue; and"; and

(iv) for clause (d), the following shall be substituted, namely:

"(d) four percent (04%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Junior Clerk having ten (10) years service as Political Moharrir, in the office of Deputy Commissioners / Ex-Political Agent.

Note: On promotion, the officials at clause (c) and (d) shall undergo six (06) months Revenue and Settlement Training as per schedule of Board of Revenue."

Secretary to Government of Khyber Pakhtunkhwa,
Revenue & Estate Department

Attested to be true
Copy

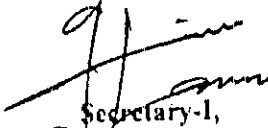
	GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT.	
091-9213989	Peshawar Dated the 30/05/2023	091-9214208


6

No. & Date Even.

Copy forwarded for information and necessary action to the: -

1. Accountant General, Khyber Pakhtunkhwa.
2. Chairman Khyber Pakhtunkhwa Public Service Commission.
3. Special Secretary (Regulation) Establishment Department, Khyber Pakhtunkhwa.
4. All Divisional Commissioners in Khyber Pakhtunkhwa.
5. Additional Secretary (Reg-II), Establishment Department, Khyber Pakhtunkhwa.
6. Additional Secretary (Reg), Finance Department, Khyber Pakhtunkhwa.
7. Additional Secretary, Law Department, Khyber Pakhtunkhwa.
8. Director Land Records, Khyber Pakhtunkhwa.
9. All Deputy Commissioners in Khyber Pakhtunkhwa.
10. Deputy Secretary (Policy), Establishment Department, Khyber Pakhtunkhwa.
11. Controller, Government Printing Press Peshawar with the request to publish the above notification in official gazette and supply hundred printed copies thereof to the undersigned for record.
12. SPS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
13. PS to Member-III, Board of Revenue, Khyber Pakhtunkhwa.



Secretary-1,
Board of Revenue, Revenue & Estate Department,
Khyber Pakhtunkhwa


Attested to be true
Copy

Schedule-II

7

S.No	Nomenclature of Posts	Minimum qualification	Age Limit	Method of Recruitment
I	II	III	IV	V
1	Provincial Planning Service (PPS) (BPS-20) as per detail at Schedule-I.	---	---	By promotion on the basis of seniority-cum-fitness, from amongst PPS officers holding posts in BS-19 and having at least 05 years service in BS-19 or seventeen (17) years service against posts in BS-17 and above and have undergone Senior Management Course (SMC) or any other training course prescribed by Government.
2	Provincial Planning Service (PPS) (BPS-19) as per detail at Schedule-I.	---	---	i. Eighty five percent (85%) by promotion on the basis of seniority-cum-fitness, from amongst PPS officers holding posts in BS-18 and having at least (07) years service in BPS-18 or twelve (12) years service against posts in BS-17 and above and have undergone Mid Career Management Course (MCMC); (1) ii. fifteen percent (15%) by transfer from amongst Officers PAS/APUG/PMS/PCS; (2) iii. deleted
3	Provincial Planning Service (PPS) (BPS-18) as per detail at Schedule-I.	---	---	i. Ninety percent (90%) by promotion on the basis of seniority-cum-fitness, from amongst the officers of Provincial Planning Service (PPS) in BS-17 having at least 05 years service, and ii. Ten percent (10%) by transfer from amongst Officers of PAS/APUG/PMS/PCS
4	Provincial Planning Service (PPS) (BPS-17) as per detail at Schedule-I.	At least Second Division, sixteen (16) years education from a recognized University or equivalent qualification in any of the fields namely, Economics, Development Studies, Agriculture Science, Health Planning and Management,	21 to 30 years	(i) Ten percent (10%) by initial recruitment through departmental examination in a prescribed manner as per syllabus at Schedule II(a) to be conducted by Khyber Pakhtunkhwa Public Service Commission, from amongst



Attested to be true
Comm

Industrial Economics,
 Educational Planning and
 Management, Statistics,
 Business Administration,
 Commerce, Computer Science
 and Information Technology,
 Environmental Management,
 Environmental Engineering,
 Developmental Management,
 Disaster Management. B.Sc/B.E
 Degree in Civil Engineering,
 Electrical Engineering, Urban
 and Regional Planning, City
 Development, Regional
 Planning, Town Planning,
 Industrial Engineering, Mining
 Engineering, Public Health
 Engineering, Transport
 Engineering, Agriculture
 Engineering and Mechanical
 Engineering.

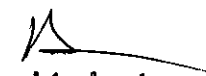
the in-service employees
 BPS-11 and above working in
 Planning and Development
 Department and Planning
 Cells of various
 Administrative Departments
 at Civil Secretariat level with
 at least five years regular
 service and having, at least,
 Second Division, Sixth (II) 52
 years education from a
 recognized University or
 equivalent qualification with
 one year course/diploma in
 Project Management or
 Development Planning:

Provided that upon
 selection, the candidates shall
 undergo seven (07) weeks
 mandatory training in the
 field of project planning and
 management as specified in
 Schedule-IV:

Provided further that if no
 suitable person is available
 then by initial recruitment.”;

- (ii) ten percent (10%) by
 promotion on the basis of
 seniority-cum-fitness from
 amongst the following
 categories of employees of
 Pool of Ministerial Staff of
 Planning and Development
 Department and Planning
 Cells of various
 Administrative Departments
 at Civil Secretariat level with
 at least five years regular
 service, having Second Class
 Bachelor's Degree from a
 recognized University and
 have undergone nine weeks
 mandatory training course in
 "Office Procedure and
 Management" at Staff
 Training Institute,
 Establishment and
 Administration Department,
 as per the share given below:

- a. Superintendent/Accounts
 Officer/ 6%


**Attested to be true
 Copy**

143 (9)

(15)


				Admin & Accounts Officer (BS-17); b. Assistant Director (11) 3% Assistant IT Manager/Computer Programmer Officer (BPS-17); and c. Personal Assistant (BPS-16); 1% and (iii) eighty percent (80%) by initial recruitment.
--	--	--	--	---

(1) In para-ii of the Column-V of the Schedule-II, the words, brackets and figure "ten percent (10%)" have been substituted with the words, brackets and figure "fifteen percent (15%) vide Notification No. SO(ESTT:) P&D/6-1/SR/PPS/2020 dated 07.04.2020.

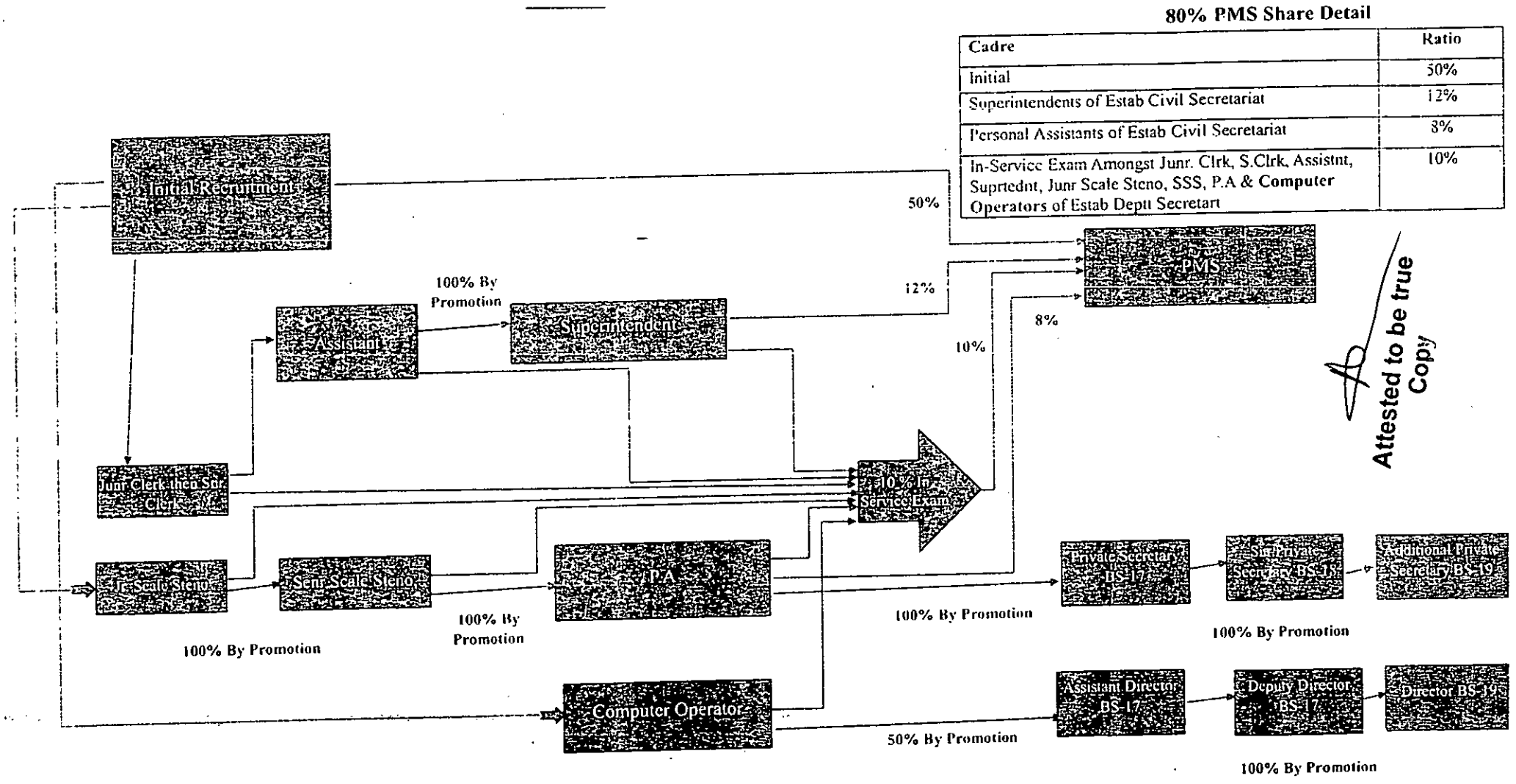
(2) para-iii of the Column-V of the Schedule-II, has been deleted vide Notification No. SO(ESTT:) P&D/6-1/SR/PPS/2020 dated 07.04.2020.

(3) In Schedule-II, against Sr. No. 4, in Column No. 3, the existing entries have been substituted vide Notification No. SO(ESTT:)P&D/6-1/SR/PPS/2019 dated 07.09.2020.

(4) In Schedule-II, against Serial No.4, in Columns No. 3 and 5, the existing entries, have been substituted vide Notification No. SO(ESTT:)P&D/6-1/SR/PPS/2019 dated 20.12.2021.


Attested to be true
Copy

80% PMS SHARE DETAIL



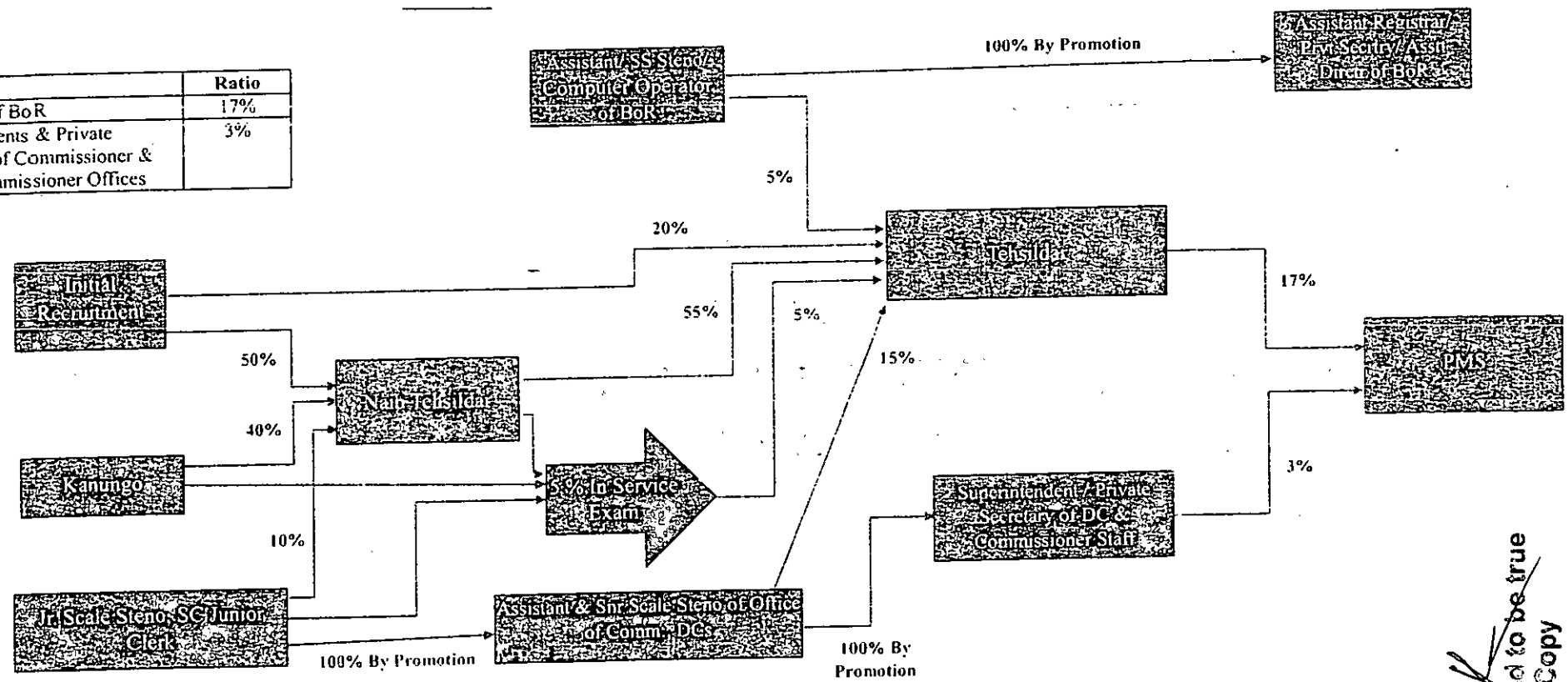
80% PMS Share Detail

Cadre	Ratio
Initial	50%
Superintendents of Estab Civil Secretariat	12%
Personal Assistants of Estab Civil Secretariat	3%
In-Service Exam Amongst Junr. Clrk, S.Clrk, Assisnt, Suprtednt, Junr Scale Steno, SSS, P.A & Computer Operators of Estab Deptt Secretart	10%

Attested to be true
Copy

20% PMS SHARE DETAIL For Tehsildars of BoR to PMS

Cadre	Ratio
Tehsildars of BoR	17%
Superintendents & Private Secretaries of Commissioner & Deputy Commissioner Offices	3%



Attested to be true
Copy

**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(Regulation Wing)**

Dated Peshawar the, 19th June 2012

NOTIFICATION

No.FD/SO(FR)10-22/2012.

The competent authority has been pleased to accord sanction to the enhancement of pay scales of the following posts, in the Provincial Secretariat, of the Khyber Pakhtunkhwa, with effect from 23.12.2011:

S#	Nomenclature of the Post	Existing Pay Scale	Enhanced Pay Scale.
1.	Stenographers	BPS-12	BPS-14
2.	Senior Scale Stenographer	BPS-15	BPS-16
3	Personal Assistants	BPS-15	BPS-16
4.	Private Secretaries	BPS-16	BPS-17

Handwritten signature

- i). The pay of the existing incumbents of the posts shall be fixed in the higher pay scale at a stage next above the pay in the lower pay scale.
- ii). With effect from 23.12.2011, the academic qualification for initial recruitment against the posts of Stenographers (BPS-14) will be Intermediate or equivalent and against the posts of Senior Scale Stenographers / PAs (BPS-16) will be Graduation or equivalent.
- iii). The Establishment & Administration Department, will amend the service rules, accordingly.
- iv). For the posts of Stenographers, Senior Scale Stenographers, Personal Assistants and Private Secretaries, in the Secretariat, a separate "Private Secretaries" cadre will be constituted and notified by the Establishment & Administration Department.
- v). The existing Private Secretaries of the Secretariat, shall have an option to exercise for "Private Secretaries cadre" or for "PMS cadre", within 60-days, from the date of issuance of notification for the constitution of separate "Private Secretaries cadre". The option once exercised shall be final, and shall not be modified or withdrawn.
- vi). Only those Private Secretaries of the Secretariat, will be entitled for the enhanced Pay Scale (BS-17) who opt for "Private Secretaries cadre". Those who opt for the PMS cadre, will continue to be in BS-16.
- vii). The Personal Assistants (BPS-16) of the Secretariat, shall have an option to exercise for "Private Secretaries cadre" or for "PMS cadre", within 60-days from the date of issuance of notification, for the separate "Private Secretaries cadre". The option once exercised shall be final and shall not be modified or withdrawn.
- viii). If a Private Secretary or a Personal Assistant of the Secretariat fails to exercise his option for any one of the cadre, within the prescribed limit of 60-days, it will be deemed that he has opted for the "Private Secretaries cadre" and as such he will not be allowed to change the cadre later on.

**SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

**Attested to be true
Copy**

Endst: No. & Date Even.

(19)

Copy is forwarded to:

1. All Administrative Secretaries, Khyber Pakhtunkhwa.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. Accountant General, Khyber Pakhtunkhwa.
4. Secretary to Governor, Khyber Pakhtunkhwa Peshawar.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. Secretary Provincial Assembly, Khyber Pakhtunkhwa.
7. Registrar, Peshawar High Court, Peshawar.
8. Registrar Khyber Pakhtunkhwa Public Service Commission Peshawar.
9. Registrar Service Tribunal, Khyber Pakhtunkhwa.
10. Secretary to Government of Punjab, Sindh and Balochistan, Finance Department, Lahore, Karachi and Quetta.
11. PS to Minister for Finance Khyber Pakhtunkhwa.
12. PS to Chief Secretary, Khyber Pakhtunkhwa.
13. PS to Additional Chief Secretary, Khyber Pakhtunkhwa.
14. Director FMIU, Finance Department for placing the same on the Website of Finance Department.
15. PS to Secretary Finance Department, Khyber Pakhtunkhwa.
16. PAs to all Additional Secretaries/Deputy Secretaries in Finance Department, Khyber Pakhtunkhwa.
17. All Section Officers/Budget Officers in Finance Department, Khyber Pakhtunkhwa.


SECTION OFFICER (FR)


**Attested to be true
Copy**