

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1436 OF 2018

Muhammad Jamil,
Sub Engineer

(Appellant)....

V/S


Secretary Communication & Works Department
Peshawar & others

(Respondents)....

I N D E X

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Deponent


Noor Wazir,
Section Officer (Lit)
C&W Department Peshawar

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**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
APPEAL NO. 1436 OF 2018**

Muhammad Jamil, Sub Engineer --- Appellant
O/O XEN C&W Division Mansehra

Versus

1. Secretary to Govt of Khyber Pakhtunkhwa --- Respondents
C&W Department, Peshawar
2. Chief Engineer (Centre)
C&W Department, Peshawar
3. Secretary to Govt of Khyber Pakhtunkhwa
Finance Department, Peshawar

Joint Parawise Comments on behalf of Respondents No. 1 to 3

Respectfully Sheweth

Preliminary Objections

1. That the appeal is not maintainable.
2. That the appellant has never challenged in time any order in which his rights were ignored
3. That the appeal is premature.
4. That the appellant has no cause of action and locus standi.
5. That the appeal is time barred.
6. That the appeal is liable to be rejected on ground of mis-joinder and non-joinder of necessary parties
7. That the appellant is estopped by his own conduct to file the instant appeal

Facts

1. Pertains to record. Hence no comments.
2. Correct to the extent that in fact the selection grade BS-16 @25% of the total posts of the Diploma Holder Sub Engineers (BS-11) was allowed by the Government with the condition that holder of the post shall be filled by selection on merit with due regard to seniority from amongst Sub Engineers of the Department, who have passed the Departmental B-Grade Examination and have at-least ten (10) years service as such. Moreover, the appellant has not passed B-Grade Exam which is mandatory for grant of Senior Scale BS-16. Therefore, his plea is infructuous (**Annex-I**).
3. Correct to the extent that the Hon'able Tribunal allowed senior scale to the senior Sub Engineers vide judgment dated 11.12.2012 and 02.03.2016. However, the facility of selection grade BS-16 has been discontinued by the Provincial Government w.e.f. 01.12.2001 vide Finance Deptt letter No.FD(PRC)1-1/2001 dated 06.04.2003 (**Annex-II**). The Establishment Deptt had issued a circular to all Administrative Secretaries and directed to clear all left over cases of Govt servants who were eligible for selection grade/move over on or before 01.12.2001 (**Annex-III**). Consequently the Respondent Department granted selection grade (BS-16) to 10 Sub Engineers in the year 2003 and 2004 (**Annex-IV**). In 2004 Naushad Khan & 14 others filed Service Appeals in the Service Tribunal for the grant of Senior Scale BS-16 with the plea that their juniors were granted Senior Scale BS-16. The Tribunal decided the case in their favour. Although the name of the appellant was at Sl.No. 199 of the seniority list of Sub Engineers dated 12.12.2000 (**Annex-V**), the appellant was not considered by the Departmental Promotion Committee, as the appellant was not passing B-Grade Examination, therefore, in the prevailing circumstances, the plea of the appellant is incorrect.

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The appellant's right has not been effected due to the reason that the grant of Senior Scale BS-16 in 2003, 2004, 2009, 2012 and 2018 as the seniority of the appellant was junior in his cadre, not passing B-Grade Exam and was in no way entitled for the grant of senior scale BS-16 as per Govt policy of 25% posts in senior scale BS-16 of the total number of posts of Sub Engineers prior to 2001. Furthermore, the appellant has based senior Scale BS-16 granted to M/S Misal Khan and Syed Sardar Shah Sub Engineers, in fact, both the officials were senior from the appellant. Hence the stance taken by the appellant is baseless.


4. Incorrect, as explained in para-3 above.
5. Correct to the extent, that since the Provincial Government upgraded the post of Sub Engineer from BS-11/12 to BS-16 on 07.03.2018, therefore, the plea of the appellant is infructuous.
6. Departmental appeal was received, which was processed and the competent authority filed the same.

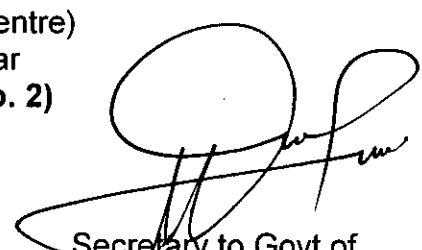
Grounds

- A. Incorrect, as explained in para-3 of the facts. Moreover, the appellant was not entitled to the said scale as selection grade is granted on the basis of seniority-cum-fitness rather selection on merit.
- B. Incorrect. The selection grade cases are considered by the Departmental Promotion Committee as per Service Rules and on the completion of codal formalities. Furthermore, the orders of selection grade BS-16 in favour of the Sub Engineers were issued in 2003, 2004, 2012 and 2018, but the appellant did not pass the B-Grade.
- C. Incorrect, as explained in Para-B of the ground.
- D. Incorrect, as explained in Para-B of the ground.
- E. Incorrect, as explained in the above paras.
- F. Incorrect. The facility for awarding senior scale (BS-16) to the Sub Engineers, having diploma of Associate Engineering (DAE) and have passed Grade-B Exam with at least 10 years service as such, has been discontinued w.e.f. 01.12.2001.
- G. Incorrect, selection grade cases are considered by the Departmental Promotion Committee as per service rules and on the completion of codal formalities.
- H. The Respondents would like to seek permission of this Hon'able Tribunal to advance more grounds during the time of arguments.

In view of the above, it is submitted that the Appeal may kindly be dismissed with cost.


Chief Engineer (Centre)
C&W Peshawar
(Respondent No. 2)


Secretary to Govt of
Khyber Pakhtunkhwa
C&W Department
(Respondents No. 1)


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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1436 OF 2018

Muhammad Jamil,
Sub Engineer

(Appellant)....

V/S

Secretary Communication & Works Department
Peshawar & others

(Respondents)....

AFFIDAVIT

I, Mr. Noor Wazir Section Officer (Litigation) C&W Department Peshawar hereby affirm and declare that all the contents of the Parawise reply / comments are correct to the best of my knowledge and belief and nothing has been concealed.

Deponent



Noor Wazir,
Section Officer (Lit)
C&W Department Peshawar

GOVERNMENT OF NORTH WEST FRONTIER PROVINCE
SERVICES & GENERAL ADMINISTRATION, TOURISM & SPORTS DEPARTMENT.

NOTIFICATION

Peshawar the 13 January, 1980.

No. SOR-I (S&GAD)1-12/74.— In exercise of the Powers conferred by Section 26 of the North West Frontier Province Civil Servants Act, 1973 (NWFP Act XVIII of 1973), in supersession of all previous rules on the subject in this behalf the Governor of the North-West Frontier Province is pleased to make the following Rules, namely:—

THE COMMUNICATION AND WORKS DEPARTMENT
(RECRUITMENT AND APPOINTMENTS) RULES, 1979.

1. (1) These rules may be called the Communication and Works Department (Recruitment and Appointment) Rules, 1979.
- (2) They shall come into force at once.
2. The Method of recruitment, minimum qualifications, age limit and other matters related there to for the Posts specified in column 2 of the Schedules annexed shall be as given in column 3 to 7 of the said Schedules.

COMMUNICATION AND WORKS DEPARTMENT

SCHEDULE - I

Sl. No.	Nomenclature of Post	Minimum qualification for appointment by initial recruitment or by transfer	Minimum qualification for appointment by promotion	Age Limit for initial recruitment	Method of recruitment
1	2	3	4	5	6
1.	Chief Engineer.				By selection on merit from amongst four senior most officers of the Department, with at least seventeen years experience as Government servant, seniority being considered only in the case of officers of practically the same standard of merit.
2.	Superintending Engineer.		Degree in Engineering from a recognised University.		By selection on merit from amongst the Executive Engineers or holder of equivalent posts in the Communication and Works Department, with at least twelve years service in Grade-17 and 18, seniority being considered only in the case of officers of practically the same standard of merit.
3.	Executive Engineer				By selection on merit with due regard to seniority from amongst Assistant Engineers of the Communication and Works Department with at least six years service as such.
4.	Assistant Engineer.	Degree in Civil, Electrical or Mechanical Engineering from a recognised University as may be specified by Government for the respective post.	Degree or Diploma in Engineering from a recognised University or Institution, as specified in column.	21 to 30 years	(a) Seventy percent by initial recruitment. (b) 10% by promotion, on the basis of seniority-cum-fitness from amongst the Sub-Engineers holding a degree in Engineering, seniority to be determined from the date of acquiring degree or initial appointment whichever is later. (c) Twenty percent by selection on merit with due regard to seniority from amongst senior scale Sub-Engineers of the Department who hold a diploma and have passed Departmental Professional Examination.

* Amendment made vide C&W Department Notification No. SO (E)/C&W/4-5/78, dated 18.10.1986.

1	2	3	4	5	6
	5. Senior Scale Sub-Engineer.		Diploma in Engineering from a recognised Institute.		Twenty five percent of the total number of posts of the diploma holders Sub-Engineers shall from the cadre of Senior Scale Sub-Engineers and shall be filled by selection on merit with due regard to seniority from amongst Sub-Engineers of the Department, who have passed the Departmental Examination and have at least ten years service as such.
	6. Administrative Officer / Budget & Accounts Officer.				By selection on merit with due regard to seniority from amongst holders of the posts of Senior Superintendents / Superintendents in the Department.

BETTER COPY

Annex - II
GOVERNMENT OF NWFP
FINANCE DEPARTMENT

7

FD/(PRC)1-1/2003,
Dated Peshawar the April 6, 2003

From Secretary to Govt of NWFP
Finance Department

To

- 1- All the Administrative Secretaries to Govt. of NWFP
- 2- Senior Member, Board of Revenue NWFP
- 3- The Secretary to Governor NWFP, Peshawar.
- 4- The Secretary Provincial Assembly NWFP,
- 5- All Heads of Attached Department, NWFP
- 6- All District Coordination Officer/Political Agents/District and Session Judges NWFP

- 7- The Registrar, Peshawar High Court Peshawar.
- 8- The Chairman NWFP Public Service Commission.
- 9- The Chairman NWFP Service Tribunal Peshawar.
- 10- The Secretary Board of Revenue NWFP Peshawar.

SUBJECT REVISION OF BASIC PAY SCALE AND FRENCH BENEFITS OF EMPLOYEES (BPS 1-22) OF THE NWFP GOVERNMENT (2001)

Dear Sir,

I am directed to refer to this Department's letter No.FD(PRC)1-1/2001 dated Nov 15,2001 on the subject noted above and to say that clarification given against Para-7 (i) and (ii) may be read as under:-

"the Selection Grade and Move over shall stand discontinued w.e.f 1-12-2001 instead of 27-10-2001. The clarification issue vide the above referred letter against Para 5(1) and Para 7 (i) & (ii) stand modified to this effect".

Yours faithfully,

SD/-
(ABDUL LATIF)
DEPUTY SECRETARY (REG)

Endst No.FD(PRC)1-1/2003

Dated Peshawar the April 6, 2003

A copy is forwarded for information to:-

- 1- All autonomous/Semi Autonomous Bodies/Corporation in NWFP

SD/-
(ABDUL LATIF)
DEPUTY SECRETARY (REG)

GOVERNMENT OF N.W.F.P
FINANCE DEPARTMENT

NO.FD(PRC)1-1/2001

Dated Peshawar the, Nov. 15, 2001.

From :- The Secretary to Govt. of NWFP,
Finance Department.

To

1. All Administrative Secretaries to Government of NWFP.
2. The Senior Member, Board of Revenue, NWFP.
3. The Secretary to Governor NWFP, Peshawar.
4. The Secretary, Provincial Assembly, NWFP.
5. All Heads of Attached Departments NWFP.
6. All District Coordination Officers/Political Agents/
District and Sessions Judges NWFP.
7. The Registrar, Peshawar High Court, Peshawar.
8. The Chairman, NWFP, Public Service Commission.
9. The Chairman, NWFP, Service Tribunal, Peshawar.
10. The Secretary, Board of Revenue, NWFP, Peshawar.

SUBJECT:- REVISION OF BASIC PAY SCALES AND FRINGE BENEFITS OF CIVIL EMPLOYEES (BPS 1-22) OF THE N.W.F.P GOVERNMENT (2001)

Sir,

I am directed to refer to this Department's circular of even number dated October 27, 2001 and to reproduce ad seriatim in the above circular the points raised by AGPR on various items of Pay Revision Scheme, 2001 and clarifications made thereto by the Finance Division Government of Pakistan for information and necessary action :-

POINTS RAISED BY AGPR

CLARIFICATION OF FINANCE DIVISION

PARA 5 OF FINANCE DEPT. LETTER NO.PD (PRC)1-1/2001 DATED OCT.27, 2001

- 1) Regarding the initial fixation of pay, the contention of AGPR is that pay of the employees in service on 30-11-2001 shall be fixed after allowing increment falling on 1-12-2001, (if due, in old scale.

The view point of AGPR is confirmed.

- ii) Similarly, in case a Government servant had reached the maximum of his pay scale on 1-12-2000 he shall remain eligible for move over w.e.f 1-12-2001 and thereafter his pay be fixed in the revised basic scale.

Move over has been discontinued w.e.f 27-10-2001. Therefore, only the employees who had reached the maximum of their scales on or before 1-12-1999 would remain eligible for Move over. Employees reaching maximum of their respective pay scales on 1-12-2000 shall not be eligible to move over.

PARA 7

- i. & ii. The Scheme of Selection Grade and move over has been discontinued w.e.f 27-10-2001 whereas the revised pay scales are applicable w.e.f 1-12-2001. This office is of the view that the Selection Grade and move over should also be discontinued from 1-12-2001.

Selection Grade has been discontinued w.e.f 27-10-2001. It can not be allowed to anybody on or after 27-10-2001. The position with regard to move over has been clarified in preceding para.

Coordination B-3

a

PARA II

While fixing the pay of employees moved over from one BPS to another BPS, it has been observed that it creates anomalies when their fixation is made by bringing them to their original scale of the post from where they had moved over viz-a-viz those who hold these scales on regular appointment. Few examples are given below :-

There is no anomaly and needs no clarification. Pay will be fixed according to para 8 (eight) of Finance Department's letter NO.FD(PRC)1-1/2001 dated October 27, 2001.

- i. Government servant BPS-19, moved over BPS-20 and in receipt of pay of Rs.13,595/- will be fixed in BPS-19 in the revised pay scale 2001 at Rs.22,240/- thus creating a difference of Rs. 2000/- in the initial fixation (i.e less than that what would have been fixed had he not been brought to his original scale from where he had moved over).
- ii. Government servant BPS-18, moved over BPS-19 and in receipt of pay of Rs.11,600/- will be fixed in BPS-18 at Rs. 18,665/- in the revised pay scale. In case pay is fixed on point to point basis in BPS-19 in the revised pay scale it would be Rs. 18,550/-. The officers holding regular appointment in BPS-19 draw less than the officers BPS-18 moved over to BPS-19.
- iii. Pay of Government servant BPS-16 drawing pay Rs. 4,702/- will be fixed in the revised pay scale at Rs. 7,050/- whereas the pay of Govt. servant in BPS-15 by virtue of move over from BPS-11 and drawing pay Rs. 4,668/- will be fixed in BPS-11 at Rs. 7,140/- which will be higher than the pay of Govt.servant in BPS-16 irrespective of the fact that Govt. servant in BPS-16 was drawing more pay than that servant who had moved over from BPS-11 to BPS-15 prior to the revision of pay scales.

The example II of Finance Deptt's letter provides method of fixation in cases where the pay in moved over scale is not within the maximum stages of the revised basic pay scale from where one has moved over. Apart from extending the scales beyond prescribed stages (i.e 30 upto scale 16), future increments upto a maximum of 3 years have also been allowed in such cases as personal to such employees. A question arises whether future increments (maximum 3 years) will also be admissible in cases where pay in revised BPS is fixed at the maximum or one or two stages below maximum on 1-12-2001. If not, it will

cause a discrimination.

PARA 10

i. It has been stated that special pay/allowances sanctioned to offices as percentage of pay shall be discontinued w.e.f 1-12-2001 and at the same time it is stated that such pay/allowances would be adjusted in future increments. It is assumed that special pay/allowances for offices would be frozen as drawn on 30-11-2001 and would be treated as personal pays/allowances and adjustable in future increments.

ii. There will, however be cases where the employees would reach maximum of pay scale without full adjustment and hence would continue to draw that special pays/allowances. It will create anomalous situation likewise the existing "personal allowance."

The words "and adjusted in future increments" occurring after 1-12-2001 in third line of para 10 may be considered as deleted.

PARA 12

The contention of this office is that the rates prescribed for various categories of Government servants alongwith the conditions written in revised column from S.No. I to IV under para 12 are correct. However, it may be clarified whether the condition for maintenance of Motor Car is to be observed for revised rates of Rs. 620/- P.M.

The entries in Revised Column of the table under paragraph 12(Twelve) of the Finance Department's letter NO.FD(PRC)1-1/2001 dated October 27, 2001 may be read as follows :-

- | | |
|--|------------------|
| i) Govt.servant in BPS-16 (Gazatted) & above maintaining motor car not registered for commercial purposes. | Rs.620/-
P.M |
| ii) Govt.servant in BPS-11 & above other than those at (i) above. | Rs.340/-
P.M. |
| iii) Govt.servants in BPS-1 to BPS-10 maintaining Motorcycle/Scooter. | Rs.230/-
P.M. |
| iv) Govt.servants in BPS-1 to BPS-10 not maintaining Motorcycle/ Scooter. | Rs.170/-
P.M. |

PARA 17

It may be confirmed whether the Special Pays/Allowances admissible on certain posts (including the departments) as percentage of pay is admissible on the existing rates with reference to the pay in the revised basic pay scales (2001) subject to the limits mentioned in the letter.

Only the special pay/allowances admissible on certain posts have been revised as percentage of pay subject to the maximum limits prescribed in para 17. Special pay/allowances sanctioned to offices/Departments have been discontinued under para 10.

Contd: on P.4....

PARA 18

- a) At Annex-II of the letter only revised rates of commutation have been given by replacing the existing commutation table but in the new table both the words existing and revised pay scale have been indicated which creates confusion. The position may be clarified.
- d (1) The increases in pensions @ 20% and 25% allowed w.e.f 1-7-1999 shall be discontinued w.e.f 1-12-2001. The contention of this office is that this clause regarding the discontinuation of above increase is only applicable to the Govt. servants who opt the revised basic pay scales with revised package of pension commutation and not the existing pensioners. The above presumptions may be confirmed.
- (ii) Similarly the 5% increase allowed w.e.f 1-12-2001 will also be admissible to these pensioners.
- e) The benefit of restoration has been withdrawn. It is assumed that the benefit will not be admissible to those who opt the revised scales and pension package and restoration of surrendered portion of pension will remain admissible to the pensioners retired after 1-12-2001 under the pre-revised basic scales (2001).
- g) The increase allowed w.e.f 1-12-2001 is on net pension inclusive of dearness increases allowed in the past. It is assumed that all increases allowed in the past are to be included in net pension.

The revised commutation table is applicable to new pay scales, 2001 only. The sub heading "Existing and Revised Pay Scales" in Annex-II to Finance Department's letter NO. FD(PCR)1-1/2001 dated October 27, 2001 may be considered as deleted.

The view point of AGPR is confirmed. Para 18(d) applies only to those employees who retire on or after 1-7-2001 and opt for the new pay scales in terms of para 19 of Finance Department's letter No. FD (PCR)1-1/2001 dated October 27, 2001. This provision shall not apply to those who choose to opt in 1994 pay scales.

Increase of 5% in pension is available to retirees in 1994 pay scales.

The benefit of restoration of commuted value of pension has been withdrawn w.e.f 1-12-2001 irrespective of an employee's date of retirement.

The view point of AGPR is confirmed.

PARA 19

- b) The contention of this office is that in case a Govt. servant does not opt for new pay scales and pension/commutation, his pension commutation will be calculated according to the existing rate and on completion of year of pension purchased, his commutation will be restored after 1-12-2001. The position may be confirmed.

As explained against para 18(e) above. However, if a person chooses to remain in 1994 pay scales his pension and commutation will be calculated according to the existing rate and the commutation table.

PARA 20

The provision of this para is not clear. It may be clarified whether the 5% will be discounted from the revised pay or from the revised gross pension or just the 5% increase admissible w.e.f 1-12-2001 is not be allowed to those who opt for revised basic pay scales and pension.

Para 20 of the letter under reference is very clear and does not lend itself to any mis-interpretation. The retiring employees who opt for 2001 pay scales are not entitled to 5% increase in pension as per para 18(g) (iii). Besides their gross pension will be reduced by 5%.

FAMILY PENSION.

Para 19 of AGPR letter.

- a) In case of family pension (death during service) heirs are entitled to net pension equal to 50% of pension and gratuity equal to 25% of gross pension. Under revised scheme of pension/commutation whether the family pension will be ;
- 1) Equal to 50% of gross pension or 60% of the gross pension.

12

It has no relevance with the revised pension and commutation scheme. The family pension (in case of death during service) will be 50% of gross pension.

- ii) The gratuity will be admissible equal to 20% or 25% of the gross pension.

The gratuity will be admissible equal to 25% of gross pension.

Scheme
Under the existing/the benefits of family Pension are equal to 75% of total pension of the Govt. servant.

- b) It may be clarified whether or not the increase in pension allowed by the Govt. w.e.f 1-12-2001 @ 5% 10% and 15% is also admissible during re-employment of the pensioner.

Under the existing rules/policy no increase in pension is admissible during re-employment.

ADDITIONAL CLARIFICATION.

Whether Special Additional Allowance will be admissible to the civil employees recruited after 1-12-2001.

They will not get any special additional allowance.

Yours, obediently

(HAFIZ HATULLAH)
ADDITIONAL FINANCE SECY. (REG./ADMN.)

Dated Peshawar the, November 15, 2001.

ENDST.NO. FD(PRC) 1-1 / 2001

A copy is forwarded for information to :-

1. All Autonomous/Semi Autonomous Bodies/Corporation in NWFP.

(ABDUL LATIF)
SECTION OFFICER (SR.1)

Contd: on P.6...

P.6....

13
ENDST.NO FD(PRC) 1-1/2001 Dated Peshawar the, November 15, 2001.

A copy is forwarded for information to :-

1. The Accountant General, NWFP, Peshawar.
2. All District/Agency Accounts Officers in NWFP.
3. The Treasury Officer, Peshawar.
4. The Private Secretary to Finance Minister, NWFP.
5. The P.S. to Secretary, PAs to Additional Secretaries/Deputy Secretaries in Finance Department.
6. All Section / Budget Officers in Finance Department, NWFP.
7. The Director, Local Fund Audit, NWFP, Peshawar.



(ABDUL LATIF)
SECTION OFFICER (SR. I)

GOVERNMENT OF N.W.F.P.,
ESTABLISHMENT DEPARTMENTNO.SO (PSB) ED/1-23/2002
Dated Peshawar, the 3.7.2004

Annex-11

14

To

1. All the Administrative Secretaries in NWFP.
2. All the District Coordination Officers in NWFP.
3. All the Political Agents in the NWFP.
4. The Secretary Public Service Commission.
5. The Registrar, NWFP, Service Tribunal.

SUBJECT: - CUT OFF DATE FOR DISPOSAL OF ALL LEFT OVER CASES OF MOVE-OVER/SELECTION GRADE

Dear Sir,

1. I am directed to refer to this department letter of even number dated 9.6.2003, 30.1.2004 and 24.4.2004 on the subject noted above and to say that the competent authority has observed that a number of working papers regarding grant of move over and Selection Grade cases are still being received which indicates that decisions taken earlier have not been implemented with letter and spirit. In order to enable the Departments to process pending cases the competent authority has been pleased to extend the cut off date upto 31.8.2004. All left over cases of Government Servants who were eligible for Selection Grade/Moveover before 1.12.2001 may be placed before PSB/DPC for consideration as per instructions/policy on the subject at the latest otherwise strict disciplinary action would be taken against the defaulting official under the NWFP Removal from Service (Special Power) Ordinance 2000..The Administrative departments are also advised to furnish/weekly progress report about disposal of pending cases of Selection Grade/Move over through PSB/DPC on regular basis.

2. I am further directed to request that above instructions may kindly be followed by all concerned with letter and spirit.

Yours faithfully

(HAROON-UR-RASHID)
SECTION OFFICER (PSB)

17/3/04
7/7/04
D.S.A.

11/3/04
S.T.M.P.A.

17/3/04
7/7/04
D.S.A.

H.A. Khan

6/7/04
S.O.B.

15

Endst: No. NO.SO (PSB) ED/I-23/2002

Dated Peshawar, the 3.7.2004

A copy is forwarded to:-

1. The PS to Secretary Establishment Department Peshawar.
2. The PS to Secretary Administration Department Peshawar.
3. PAs to all Additional Secretaries/Deputy Secretaries in the Establishment and Administration Peshawar.
4. All Section Officer in the Establishment and Administration Department Peshawar.
5. The Section Officer (PR) Government of NWFP, Finance Department for information.

H. J. Khan
SECTION OFFICER (PSB)

Fair Copy

Annex - IV

16

GOVERNMENT OF N.W.F.P.
WORKS & SERVICES DEPARTMENT.

Dated Peshawar the 04/09/2003.

ORDER

NO. SOE-1/W&S/4-2/2003/S.S. Consequent upon recommendations of the Departmental Promotion Committee of the Works & Services Department during its meeting held on 12.08.2003 the competent authority has been pleased to the grant of Senior Scale (BS-16) in respect of the following Sub Engineers (BS-11) of the Works & Services Department with immediate effect:-

1. Mr. Muhammad Arif.
Sub Engineer. O/o the XEN Dev:
C&W Division Mattani at Kohat.
2. Mr. Misal Khan.
Sub Engineer. O/o the XEN Dev:
C&W Division SWA at Tank.

SECRETARY TO GOVT. OF NWFP
WORKS & SERVICES DEPARTMENT.

Endst. No. SOE-1/W&S/4-2/2003/S.S.

Dated Peshawar the 04.09.2003.

Copy forwarded to the:-

1. Accountant General NWFP, Peshawar.
2. Chief Engineer Works & Services Peshawar.
3. Chief Engineer Works & Services (FATA) Peshawar.
4. Managing Director Frontier Highways Authority Peshawar.
5. Deputy Secretary (Reg-III) Establishment Department Peshawar.
6. Deputy Secretary (Reg) Finance Department Peshawar.
7. All Superintending Engineers W&S Department.
8. District/Agency Accounts Officers concerned.
9. Officials concerned.
10. PS to Secretary Works & Services Department.
11. PA to Additional Secretary Works & Services Department.
12. Section Officer (Estt-II) Works & Services Department.
13. Office Order/Personal files.

Sd/-
(MUHAMMAD AKBAR KHAN)
SECTION OFFICER (ESTT-I).

Fair Copy

17

GOVERNMENT OF N.W.F.P.
WORKS & SERVICES DEPARTMENT

Dated Peshawar 19/04/2004

ORDER

No: SOE-I/W&S/4-2/2004/S.S. Consequent upon recommendations of the Departmental Promotion Committee of the Works & Services Department during its meeting held on 25/03/2004, the competent authority has been pleased to the grant of Senior Scale (BS-16) in respect of the following Sub Engineers (BS-11) of the Works & Services Department, with immediate effect:-

1	Mr. Muhammad Shah. Sub Engineer. O/o the Deputy Director- City Distt: Govt. Peshawar.
2	Mr. Buland Iqbal. Sub Engineer. O/o the XEN Dev: C&W Division Khyber Agency at Jamrud.
3	Mr. Hidayatullah. Sub Engineer. O/o the Deputy Director-II. City Distt: Govt. Peshawar.
4	Mr. Sanaullah. Sub Engineer. O/o the Deputy Director W&S Lakki Marwat.
5	Mr. Zafrullah. Sub Engineer. O/o the Deputy Director W&S Nowshera.
6	Mr. Tariq Usman. Sub Engineer. O/o the XEN Dev: C&W Division Khyber Agency at Jamrud.
7	Mr. Muhammad Javed Rahim. Sub Engineer. O/o the Deputy Director W&S D.I.Khan
8	Mr. Jamshed Khan. Sub Engineer. O/o the Deputy Director W&S Bunair.

SECRETARY TO GOVT. OF NWFP
WORKS & SERVICES DEPARTMENT.

Dated Peshawar, the 19/04/2004.

Endst: No. SOE-I/W&S/4-2/2004/S.S.

Copy forwarded to the:-

1. Accountant General NWFP, Peshawar.
2. AGPR: Sub Office, Peshawar.
3. Chief Engineer Works & Services Peshawar.
4. Chief Engineer (FATA) Works & Services Deptt: Peshawar.
5. Managing Director Frontier Highways Authority Peshawar.
6. Deputy Director/XEN Works & Services concerned.
7. District/Agency Accounts Officers concerned.
8. Officials concerned.
9. PS to Secretary Works & Services Department.
10. Office Order/Personal files.

Sd/-
(NOORULLAH)
SECTION OFFICER(ESST-I)

Annex-V

18

OFFICE OF THE CHIEF ENGINEER (NORTH)
C&W DEPARTMENT N.W.F.P.PESHAWAR.
No.756/4 -E(I)/4574 /E-1(2)
Dated Peshawar the 12/10/2000

FINAL SENIORITY LIST OF SUB ENGINEERS GRADE -11
ON THE BASIS OF DATE OF APPOINTMENT IN THE
DEPARTMENT AS IT STOOD ON 31-12-1999.

In pursuance of sub section (1) of section -(8) of NWFP Civil Servants Act 1973, Seniority list of Sub Engineers
Grade -11 of C&W Department NWFP. as it stood on 31-12-1999 is notified as under:-

Sl No	NAME	EDUL/TECH: QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINT MENT	TO CLASS	YEAR OF PASSING.		REMAI
							Grade-B Exam:	Proffi: Exam:	
1	Fazli Raziq-1 S/O	B.A.	Swat	5.4.43.	1.7.61	-	11/91	-	-
2	Gul Zaman S/O	Matric DAE (Civ:)	Malakand Agy:	6-6-40	1-1-73	-	-	-	-
3	Payo Rehman S/O	Matric DAE (Civ:)	Karak	9-8-42	11-1-74	-	-	-	-
4	Faizur Rehman-I S/O	-do-	Peshawar	2-9-45	21-11-74	-	-	-	-
5	Fayaz Gul-I S/O	-do-	NW.A	20-6-51	19-12-74	-	6/96	-	-

10
16

SI No	NAME	EDUL./TECH: QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING.	REMARKS.
192	Muhammad Naem III	<i>Matric</i> DAE (Civ.)	Charsadda	16-4-62	17-3-88	-	6/96	
193	Akbar Ali S/O Muhammad Akbar	-do-	Charsadda	11-3-63	17-3-88	-	6/96	
194	M. Gul Khitab S/O Wilayat Khan	-do-	Mansehra	25-4-63	17-3-88	-	-	
195	Jaffar Shah S/O S. Bahadar Shah	FA/ DAE (Civ.)	Haripur	1-2-64	17-3-88	-	-	
196	Shah Tehmas Khan S/O Israr Khan	<i>Matric</i> DAE (Civ.)	Bannu	30-3-63	17-3-88	-	-	
197	Jamilur Rehman S/O Yunus Khan	-do-	Abbtabad	2-4-64	17-3-88	-	-	
198	Muhammad Hayat S/O Luqman Hakim	-do-	Peshawar	10-5-64	17-3-88	-	6/96	
199	Muhammad Jamil-II S/O Amanullah	-do-	Mansehra	12-5-64	17-3-88	-	-	
200	Ghulam Jalil S/O Yaqoob Khan	-do-	Chitral	10-1-58	19-3-88	-	-	





SI No	NAME	EDUL/TECH: QUALIFICATION	HOME DISTRICT	DATE OF BIRTH	DATE OF APPOINTMENT	TO CLASS	YEAR OF PASSING.
314	Anees Kalim S/O Abdul Rub Kalim	BA/ DAE (Civ)	Swabi	30-3-64	17.6.97	15.10.99	- - -
315	Mr, Murad Ali S/O Marhamat Khan	MA/ DAE (Civ)	Bannu	20-1-64	31.10.97	18.10.99	- - -

(45)

Copy to the:-

1. Secretary to Govt: of NWFP C&W Department , Peshawar.
2. Chief Engineer(Soth) C&W Department , NWFP Peshawar.
3. Superintending Engineers Dev:C&W Circle DIKhan/Pshawar
4. All Executive Engineer in C&W Department, NWFP
5. All Resident Director in C&W department NWFP,
6. Director M&E (North/South)C&W Deptt:Peshawar

Subman
 CHIEF ENGINEER (NORTH)
 [Signature]
 7/9 9/9 14/12

Subman
 CHIEF ENGINEER (NORTH)
 [Signature]
 7/9 9/9
 37/51

1/5/99

BEFORE THE KKP, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1436/2018

Muhammad Jamil

VS

C& W Deptt: etc

.....
REJOINDER ON BEHALF OF APPELLANT
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct as the service record of the appellant is present in the department.
- 2 Incorrect. The respondent department has not conducted B Grade exam since 1996 and appellant has passed higher exam i.e A grade exam in the year 2016 and should not be punished for the fault of the department for not conducting B Grade exam since 1996.
- 3 Pertain to record, but the respondent department has not conducted B Grade exam since 1996 and appellant has passed higher exam i.e A Grade exam in the year 2016 and should not be deprived from selection Grade B-16 on the ground that the appellant has not passed B Grade exam as the department did not conduct B grade since 1996 and has passed higher exam A grade. The appellant is ready to appear in B Grade exam, if the department conduct B Grade exam.
- 4 Incorrect as replied in Para-3 above.
- 5 First portion of Para-5 is admitted correct, while the rest of Para is incorrect as respondent department has not conducted B grade exam since 1996 and appellant has passed higher exam i.e A grade exam in the year 2016 and should not be punished for the fault of the department for not conducting B grade exam since 1996.

GROUNDS:

- A. Incorrect. The appellant has been discriminated as many colleague of the appellant has granted BPS-16, but the appellant has been deprived from Selection Grade BPS-16 in arbitrary manner.
- B. Incorrect. The appellant has filed proper departmental appeal for selection grade BPS-16 and has been discriminated as many colleague of the appellant has granted BPS-16, but the appellant has been deprived from Selection Grade BPS-16 on the basis that he has not passed B grade exam as the respondent department has not conducted B grade exam since 1996 and appellant has passed higher exam i.e A - grade exam and should not be punished for the fault of the department for not conducting exam since 1996.
- C. Incorrect as explained in Para-B above.
- D. Incorrect as explained in Para-B above.
- E. Incorrect as explained in above Paras.
- F. Correct to the extent that the selection grade has been discontinued w.e.from 01.12.2001, but many colleagues of the appellant has been recently granted of selection grade BPS-16 in the Year 2018 w.e.f 04.09.2003 from in the compliance of this august Service Tribunal Judgment.
- G. Incorrect. While Para-G of the appeal is correct.
- H. Legal.

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

APPELLANT

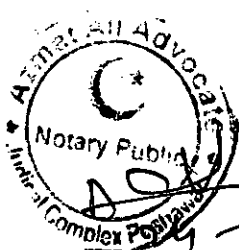
Through:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the honorable Tribunal.

TESTED




DEPONENT.

قیمتی

کورٹ فیس

وکالت نامہ

بعدالت: محکمہ اوقاف و امور خیرات، سندھ

عنوان: محمد جمیل بنام: Card

منجانب: لیٹینس

نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آل مقام

محمد اسحاق بی بی صاحبہ

بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پکھری کے علاوہ کسی اور جگہ سماعت ہونے پر یا بروز پکھری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پر داخستہ صاحب مثل کردہ ذات خود منظور و قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط صدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کا روپیہ وصول کرنے اور رسیدہ دینے اور داخل کرانے کا ہر قسم کا بیان دینے اور سپرد وراثی و رضی نامہ و فیصلہ برخلاف کرنے و اقبال دعویٰ کا اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یک طرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو شرط ادا نیگی علیحدہ پیروی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا ایبیر سٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کہ سندر ہے۔ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

المرقوم: محمد اسحاق بی بی صاحبہ

بمقام: محمد جمیل

العدالت

محمد اسحاق بی بی صاحبہ
محمد جمیل