

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
(Camp Court, D.I.Khan)

Appeal No. 1503/2019

Date of Institution ... 08.10.2019

Date of Decision ... 24.11.2021

Yahya Hameed son of Abdul Hameed resident of Majeed Lane, Daraban Road,  
D.I.Khan (SDO Irrigation Department).

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Irrigation Department,  
Peshawar and others.

...(Respondents)

Present.

Mr. Wasim Rehan,  
Advocate

... For appellant.

Mr. Muhammad Rasheed,  
Deputy District Attorney,

... For respondents.

MR. AHMAD SULTAN TAREEN,  
MR. SALAH-UD-DIN,

... CHAIRMAN  
... MEMBER(J)

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:- The appellant through the appeal prescribed above in the heading has invoked the jurisdiction of this Tribunal seeking relief based on the prayer copied herein below:-

*"On acceptance of instant appeal this Honourable Tribunal may be pleased to declare the impugned office order No. 4459/IB/A/12-E dated 04.09.2019 and impugned notification dated 13.12.2011 to the extent of promotion of respondent No. 7 as Assistant Engineer/Sub Divisional Officer (BS 17) issued by respondent No. 2 as illegal, without lawful authority, without jurisdiction, void ab initio and ineffective upon the rights of the appellant and is liable to be set aside and may kindly be directed the official respondents to promote the petitioner Assistant Engineer/Sub Divisional Officer (BS 17) w.e.f. 13.12.2011 alongwith all back benefits."*



2. According to factual account given by the appellant, he was appointed as Graduate Sub-Engineer (BPS-11) in Irrigation Department, Khyber Pakhtunkhwa vide office order dated 04.03.1996. The respondent No. 7 was appointed on 17.11.2006 as Sub-Engineer and was junior than the appellant. The respondent No. 2 vide notification dated 13.12.2011 promoted other officials alongwith respondent No. 7 as Assistant Engineer/Sub Divisional Officer (BPS-17) on acting charge basis but the respondent No. 7 was promoted without his turn as the appellant was senior but was ignored. After getting knowledge regarding the said promotion order, the appellant filed appeal to respondent No. 2 and challenged the promotion order to the extent of respondent No. 7 and reminder was also filed regarding the said promotion order through proper channel. The respondent No. 4 issued the impugned office order No. 4459 dated 04.09.2019 but no proper order regarding the appeal filed by the appellant was issued by the Authority. The appellant has filed present appeal with the prayer copied above.

3. After submission of the appeal, notices of the appeal were given to the respondents. Respondent No. 7 did not turn up and was placed ex-parte. The official respondents submitted their written reply, contested the appeal with several factual and legal objections, refuting the claim of the appellant and asserted for dismissal of appeal with cost.

4. We have heard arguments and perused the record.

5. It was argued on behalf of the appellant that he according to the seniority list annexed with the appeal is at Serial No. 9 while name of the respondent No. 7 appears at Serial No. 10. According to impugned order dated 13.12.2011, the respondent No. 7 was wrongly promoted being junior to the appellant. The appellant preferred departmental appeal to the respondent No. 2 on 26.07.2019 who despite submission of reminder did not decide the appeal in time rather the appellant was communicated through wrong forum about the reason of appointment of respondent No. 7 as Assistant Engineer/Sub

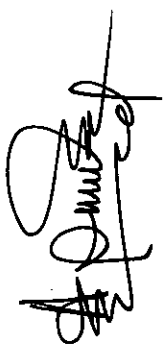
Divisional Officer having no effect on right of the appellant. Learned counsel for the appellant contended that the stance of the department is quite wrong and unwarranted. The appellant having been appointed since 1996 with higher qualification of B.Sc Engineering is still awaiting his promotion to the next grade. He concluded his arguments with submission that the appeal may be accepted as prayed for.

6. It was argued on behalf of the respondents that the appeal has been filed with twisted facts and concealment of actual seniority list. Learned Deputy District Attorney in order to fortify his arguments, referred to Para-2 of parawise comments of respondents No. 1 to 6. Due to usefulness of said reference of the comments is reproduced herein below:-

*"Correct, to the extent that respondent No. 7 was appointed as Sub Engineer on 17.11.2006. However, the appellant is pre-service Graduate Sub Engineer while the respondent No. 7 is In Service Graduate Sub Engineer. At the time of appointment of appellant as Sub Engineer, method of recruitment for the post of Sub Divisional Officer/Assistant Engineers BS-17 under Serial No. 4 of the Appendix to the Notification No. SOR-I(S&GAD)1-12/74, dated 30.04.1979 read with notification No. SO(E)PHED/6-12/94, dated 30.05.1995 (annexure-I) was as under:-*

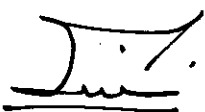
- (a). *Seventy percent by initial recruitment and*
- (b)(i) *5% by promotion on the basis of seniority-cum-fitness from amongst Sub Engineers who have acquired degree in Engineering during service;*
- (ii) *5% by promotion on the basis of seniority-cum-fitness from amongst the Sub Engineers who have joined service as Graduate Engineer;*  
*Provided that if no Sub Engineer in a category is available for promotion, the vacancy shall be filled in from the other category;*  
*and*
- (c) *20% by selection on merit with due regard to seniority from amongst officiating Assistant Engineers of the Department concerned in which the vacancy occurs who hold a diploma."*

7. The case of the appellant as set up in Memorandum of appeal is not supported by any reference to the rules providing mode and manner of appointment conferring better titled upon the appellant for promotion on the post of Assistant Sub Engineer/Sub Divisional Officer in preference to respondent No. 7. On the other hand, the respondents have clarified the position with reference to the rules providing mode and manner of the appointment of Assistant Sub Engineer/Sub Divisional Officer (BS-17) in heir reply as copied above. Accordingly, seventy percent quota is reserved for initial recruitment and the remaining thirty percent quota reserved for promotion has been divided in three proportion including five percent for the Sub Engineers who have acquired Degree in Engineering during service, five percent for the Sub Engineers who have joined the service as Graduate Engineer and twenty percent for Diploma Holder Sub Engineers. The respondents have further fortified their case against the appellant by production of copies of two different seniority lists, one relating to In-service Graduate Sub Engineers (those who acquired Degree of Engineering during service) including the name of respondent No. 7 at Serial No. 2 of the said list; and the other list was in respect of Graduate Sub Engineers who joined the service on the basis of graduation wherein the name of the appellant appeared at Serial No. 9. When we have compared the impugned order with the said list as produced by the respondents, seven individuals listed at Serial No. 2 to 8 above the name of the appellant in the list of graduate in category of the appellant were promoted by the impugned order. Besides other, the respondent No. 7 was promoted on the basis of his entry at Serial No. 2 in the separate seniority list meant for In-service Graduate Sub Engineers having no nexus with the seniority list maintained for observance of quota of those Graduate Sub Engineers who were holding the degree at the time of joining the service. Besides, the individual promoted from the seniority list relating to the category of the appellant and the promotion of respondent No. 7 and other individuals were also promoted by the impugned order who may be the one falling in category of

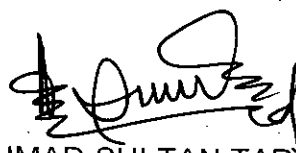


Diploma Holder Sub Engineers competing for twenty percent quota. With the given position, the appellant has got no locus-standi under the facts and law to challenge the promotion of respondent No. 7 and to earned promotion for himself at cost of reversal of promotion of respondent No. 7 made vide impugned order dated 13.12.2011. Needless to say that the appellant did not challenge the impugned order in due course of time having regard to the prescribed limitation meant for involving the departmental remedy before the Departmental Appellate Authority and judicial remedy before the Tribunal. He having remained long in hibernation came forward to challenge the impugned order in 2019 which was passed long ago in 2011. There is no ground in the memorandum of appeal to justify the preference of appeal with delay of years beyond the prescribed limitation. Similarly, he also did not seek the condonation of delay by any application. The appeal was admitted for regular hearing, subject to limitation and all legal objections with preliminary consideration of the factual points. However, the appellant has badly failed to make out a case for relief with any factual ground as far as the observations on merit herein before are concerned. The question of limitation is there and there is nothing on credit of the appellant to entitle him for condonation of the delay in his pursuit against the impugned order found factually well-placed. Therefore, the appeal fails.

8. For what has been discussed above, the appeal is dismissed, leaving the parties to bear their own costs. File be consigned to the record room.

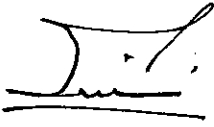



(SALAH-UD-DIN)  
Member(J)  
(Camp Court, D.I.Khan)



(AHMAD SULTAN TAREEN)  
Chairman  
(Camp Court, D.I.Khan)

ANNOUNCED  
24.11.2021


S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	24.11.2021	<p><u>Present.</u></p> <p>Mr. Wasim Rehan, ... For appellant Advocate</p> <p>Mr. Muhammad Rasheed, Deputy District Attorney, ... For respondents.</p> <p>Vide our detailed judgment, the appeal is dismissed, leaving the parties to bear their own costs. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">             (SALAH-UD-DIN)            Member(J)            (Camp Court, D.I.Khan)         </div> <div style="text-align: center;">             (AHMAD SULTAN TAREEN)            CHAIRMAN            (Camp Court, D.I.Khan)         </div> </div> <p><u>ANNOUNCED</u> 24.11.2021</p>

22.02.2021

Nemo for parties.

Noor Zaman Khattak learned District Attorney for official respondents present.

Notice be issued to appellant/counsel and respondents for 25.05.2021 for arguments before D.B at Camp Court, D.I. Khan.



(Atiq ur Rehman Wazir)  
Member (E)  
Camp Court, D.I Khan



(Rozina Rehman)  
Member (J)  
Camp Court, D.I Khan

*Due to COVID-19 therefore  
to come up for the same on  
28/9/21*



Reader

28.09.2021

Nemo for the appellant. Mr. Usman Ghani, District Attorney for the respondents present.

Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for arguments before the D.B on 24.11.2021 at Camp Court D.I.Khan.



(ATIQU-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)  
CAMP COURT D.I.KHAN

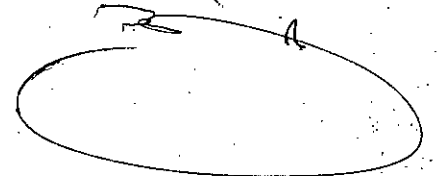


(SALAH-UD-DIN)  
MEMBER (JUDICIAL)  
CAMP COURT D.I.KHAN

27.10.2020

Appellant is present in person. Mr. Muhammad Jan, Deputy District Attorney for the official respondents No. 1 to 6 is also present.

Notice was issued to private respondent No. 7 on 22.09.2020 for submission of written reply/comments however, neither private respondent No. 7 has forth come in person nor anyone else representing him has appeared accordingly, he is proceeded against ex-parte. Written reply on behalf of official respondents No. 1 to 6 has already been submitted. File to come up for rejoinder and arguments on 22.12.2020 before D.B at Camp Court, D.I.Khan.



(MUHAMMAD JAMAL KHAN)  
MEMBER  
CAMP COURT D.I.KHAN

22.12.2020

Due to Pandemic of Covid-19, the case is adjourned to 22.02.2021 for the same.

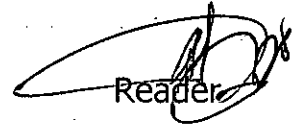


Reader



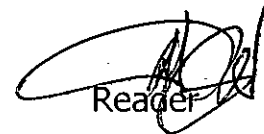
25/3/2020

Due to COVID-19 the case is adjourned. To come up for the same 21/4/2020 at Camp Court, D.I Khan

  
Reader

21/4/2020

Due to COVID-19 the case is adjourned. To come up for the same 22/9/2020 at Camp Court, D.I Khan

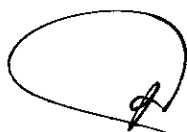
  
Reader

22.09.2020

Appellant in person present.

Mr. Usman Ghani, District Attorney alongwith Khawar Nadeem, SDO on behalf of official respondents No. 1 to 6 present. None present on behalf of private respondent No. 7.

Written reply/comments on behalf of official respondents No. 1 to 6 was submitted, which is placed on file. Notice be issued to private respondent No. 7 for submission of written reply/comments. To come up for written reply/comments on behalf of private respondent No. 7 on 27.10.2020 before S.B at Camp Court, D.I Khan.


  
(Rozina Rehman)  
Member (J)  
Camp Court, D.I Khan

24.02.2020

Counsel for the appellant Yahya Hameed present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Irrigation Department as Sub-Engineer (BPS-16). It was further contended that seniority list of Sub-Engineers of Irrigation Department is available on record wherein the appellant is shown senior to private respondents but the respondent-department has promoted the private respondents on acting charge basis and the appellant was ignored for unknown reason therefore, the appellant filed departmental appeal which was rejected vide order dated 04.07.2019 hence, the present service. It was further contended that the respondent-department was bound to promote the appellant on acting charge basis to the post of Assistant Sub-Engineer/SDO (BPS-17) when his junior colleagues were promoted.

The contentions raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to limitation and all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 25.03.2020 before S.B at Camp Court D.I.Khan.

Appellant Deposited  
Security & Process Fee

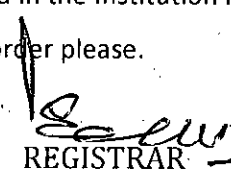


  
(M. Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

Form- A

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 1503/2019


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/11/2019	<p>The appeal of Mr. Yahya Hameed received today by post through Mr. Wasim Rehan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	19.12.2019	<p>This case is entrusted to touring S. Bench at D.I.Khan for preliminary hearing to be put up there on _____</p> <p>Nemo for appellant. CHAIRMAN</p> <p>Notice be issued to appellant/counsel for preliminary hearing on 27.01.2020 at camp court, D.I.Khan.</p> <p> Chairman</p>
27.01.2020		<p>Clerk to counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 24.02.2020 for preliminary hearing before S.B at Camp Court D.I.Khan.</p> <p> (M. Amin Khan Kundi). Member Camp Court D.I.Khan</p>

This is an appeal filed by Mr. Yahya Hameed today on 08/10/2019 against the order dated 13.12-2011 against which he preferred/made departmental appeal/ representation on 26.07.2019 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 1722/ST,

Dt. 10-10-2019

  
↓ REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Wasim Rehan Adv.  
High Court District Bar  
Dera Ismail Khan

OFFICE OF THE WASIM REHAN ADV. HC. D. ISMAIL KHAN.

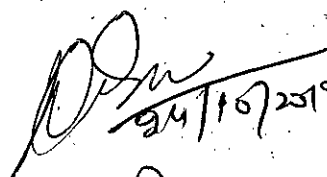
To  
THE REGISTRAR  
SERVICE TRIBUNAL  
KPK - PESHAWAR.

subject: Resubmission of APPEAL

R/sr.

The Appeal is Resubmitted as the period of 90 (NINETY) DAYS is completed of departmental appeal.

Sincerely.

  
24/10/2019  
WASIM REHAN ADV  
0333-9978271

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

Appeal No. 503 /2019

Yahya Hameed

.....APPELLANT

**VERSUS**

Govt. of K.P.K and others


.....RESPONDENTS


**INDEX**

S #	Description of Documents	Annexure	Page #
1	Grounds of Appeal and addresses of the parties	-----	1-6
2	Copy of Service Book of the Petitioner	A	7-8
3	Copies of Seniority Lists	B	9-10
4	Copy of Impugned Notification dated 13-12-2011	C	11-13
5	Copy of Appeal (Reminder)	D	14
6	Copy of Impugned office order dated 04-09-2019	E	15
7	Vakalatnama	-----	16

Dated: 04 /10/2019

Humble Appellant

  
Yahya Hameed  
Through Counsel

  
**Wasim Rehman**  
Advocate High Court,  
District Bar, D.I.Khan.

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR.**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1413

Dated 08/10/2019

Appeal No. 1503 /2019

Yahya Hameed son of Abdul Hameed resident of Majeed Lane, Daraban Road, District Dera Ismail Khan. (SDO, Irrigation Department)

.....**APPELLANT**

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa through Secretary Irrigation Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
  2. Secretary Irrigation Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
  3. Chief Engineer (South), Irrigation Department, Peshawar.
  4. Superintendent Engineer (Head-Quarters) Irrigation Department, Peshawar.
  5. Superintendent Engineer, D.I.Khan Irrigation Circle, D.I.Khan.
  6. Executive Engineer, Irrigation Department, Flood Division Dera Ismail Khan.
- Musharaf Shah, Assistant Engineer / Sub-Divisional Officer, Irrigation Department, D.I.Khan.

.....**RESPONDENTS**

*Ex parte*  
*27/10/20*  
*7*  
*Filed today*  
*Registrar*

**APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED OFFICE ORDER NO. 4459/IB/A/12-E DATED 04/09/2019 AND IMPUGNED NOTIFICATION DATED 13/12/2011 TO THE EXTENT OF PROMOTION OF RESPONDENT NO. 7 AS ASSISTANT ENGINEER / SUB DIVISIONAL OFFICER (BS-17) ISSUED BY RESPONDENT NO. 2.**

**PRAYER;**

Re-submitted to -file and filed.  
Registrar  
27/11/19

**PRAYER;**

On acceptance of instant appeal this Honourable Tribunal may be pleased to declare the impugned office order No. 4459/IB/A/12-E dated 04/09/2019 and impugned notification dated 13/12/2011 to the extent of promotion of respondent No. 7 as Assistant Engineer / Sub Divisional Officer (BS-17) issued by respondent No. 2 as illegal, without lawful authority, without jurisdiction, void *ab initio* and ineffective upon the rights of the appellant and is liable to be set aside and may kindly be directed the official respondents to promote the petitioner Assistant Engineer / Sub Divisional Officer (BS-17) w.e.f. 13/12/2011 alongwith all back benefits on the grounds appearing hereinafter;

**OR**

**GRANT** any other relief considered just and appropriate under the given circumstances of the case.

**Respectfully sheweth;**

1. That the appellant was appointment as Graduate Sub-Engineer (BPS-11) in Irrigation Department, Khyber Pakhtunkhwa vide office order dated 04-03-1996 issued by Chief Engineer Irrigation Department.
2. That the respondent No. 7 was appointed on 17/11/2006 in irrigation department as Sub-Engineer, and thus he was junior than the present appellant.

3. That the respondent No. 2 vide impugned Notification dated 13/12/2011 promoted the other officials alongwith respondent No. 7 as Assistant Engineer / Sub Divisional Officer (BS-17) on acting charge basis, but the respondent No. 7 was promoted without his turn as the present appellant was senior but the official respondents willfully ignored the present appellant.
4. That, after getting the knowledge regarding promotion order mentioned above, the present appellant filed the appeal to Respondent No. 2 and challenged the promotion order of to the extent of respondent No. 7 and to that effect the present appellant also filed the reminder regarding appeal through proper channel. The respondent No. 4 issued the impugned office order No. 4459 dated 04/09/2019 regarding appeal of the present appellant but no proper order regarding the appeal filed by the present appellant was issued by authority; hence the instant appeal, *inter alia*, on the following grounds;

**GROUNDS:**

- A. That, during the entire service the appellant perform his duty with full of his professional skills and hard-work and to that effect the service record of the appellant speaks volume.



B. That vide impugned notification dated 13/12/2011 the respondent No. 2 also promoted the respondent No. 7 as Assistant Engineer / Sub Divisional Officer (BS-17) on acting charge basis but he was not entitled for the same due to the reason that the respondent No. 7 was promoted without his turn as the present appellant was senior but the official respondents willfully ignored the present appellant. Thus, the respondents violated the legal right of the present appellant.

C. That the present appellant got the knowledge regarding promotion order mentioned above, the present appellant filed the appeal to Respondent No. 2 and challenged the promotion order of to the extent of respondent No. 7 and to that effect the present appellant also filed the reminder regarding appeal through proper channel but the appeal of the appellant was not properly decided and the respondent No. 4 issued the impugned office order No. 4459 dated 04/09/2019 regarding appeal of the present appellant. Thus the act of the official respondents is without jurisdiction and the impugned office orders are liable to be cancelled.

D. That the appellant may kindly be allowed to argue the additional grounds at the time of arguments.

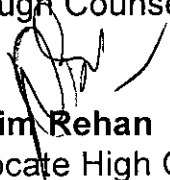
5

It is, therefore, prayed that on acceptance of this appeal this Honourable Tribunal may be pleased to pass orders / notification as prayed for in the heading of this appeal.

Dated: \_\_\_/10/2019

Humble Appellant

  
Yahya Hameed  
Through Counsel

  
Wasim Rehan  
Advocate High Court,  
District Bar, D.I.Khan.

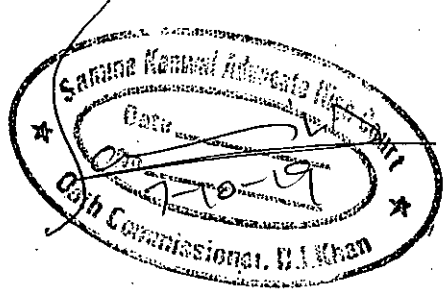
**AFFIDAVIT**

-----

I, the appellant, do hereby solemnly affirm and declare on Oath that all the para-wise contents of this appeal are true and correct to the best of my knowledge and belief; and that nothing has been deliberately concealed or kept secret from this Honourable Tribunal.

  
Identified by Counsel

  
Deponent



6.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR.**

Appeal No. \_\_\_\_\_/2016

Muhammad Waqar

.....APPELLANT

**VERSUS**

Govt. of K.P.K and others

.....RESPONDENTS

**ADDRESSES OF THE PARTIES**

Yahya Hameed son of Abdul Hameed resident of Majeed Lane, Daraban Road, District Dera Ismail Khan. (SDO, Irrigation Department)

.....APPELLANT


- 
1. Govt. of Khyber Pakhtunkhwa through Secretary Irrigation Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
  2. Secretary Irrigation Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
  3. Chief Engineer (South), Irrigation Department, Peshawar.
  4. Superintendent Engineer (Head-Quarters) Irrigation Department, Peshawar.
  5. Superintendent Engineer, D.I.Khan Irrigation Circle, D.I.Khan.
  6. Executive Engineer, Irrigation Department, Dera Ismail Khan.
  7. Musharaf Shah, Assistant Engineer / Sub-Divisional Officer, Irrigation Department, D.I.Khan.

.....RESPONDENTS

Dated: \_\_\_/10/2019

Humble Appellant

  
Yahya Hameed  
Through Counsel

  
**Wasim Rehan**  
Advocate High Court,  
District Bar, D.I.Khan.

ANNEX- A  
page 17

1.	2.	3.	4.	5.	6.	7.	8.	9.
Name of Post	Whether substantive or officiating and whether permanent or temporary	If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive Post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of Government Servant	Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8
Sub-Engineer B-R-S-11 1725-116-3465	offg/Temp		1725/-			5/3/96 F.N.	Allan	Deputy D. Small Dam Irrigation N.W.F.
do	-11-		1841/-			12/96 F.N.		Annual grant
do	-1-		1957/-			12/95 F.N.		Annual
								Small Irriga N.W.F.

3  
Signature of Government Servant

9  
Signature and position of the head of the office or other attesting officer in columns 1 to 8

10  
Date of termination of appointment

11  
Reason of termination (such as promotion, transfer, dismissal, etc.)

12  
Signature of the head of office or other attesting Officer

13  
Leave  
Nature and duration of leave taken  
Allocation of period of leave on average pay upto four months for which leave salary is debit to another Government  
Government to which debitable

14  
Signature of the head of office or other attesting officer

15  
Reference to any recorded punishment or censure, or reward or praise of the Government Servant

Allan

*[Signature]*  
Deputy Director  
Small Dams Directorate  
Irrigation Department  
N.W.F.P. Peshawar.

(8)

Appointed as Sub-Engineer in grade B-PS-11 (1725-116-345) and Chief Engineer Brigaha Deptt. Peshawar office order No. 4512/1B/A/3E(113) 27-4-96.

Reported arrival for duty on the forenoon of 5<sup>3</sup>/<sub>96</sub>

*[Signature]*  
Deputy Director  
Small Dams Directorate  
Irrigation Department  
N.W.F.P. Peshawar.

Deputy Director  
Small Dams Directorate  
Irrigation Department  
N.W.F.P. Peshawar.

Annual increment granted on 11/11/96

Deputy Director  
Small Dams Directorate  
Irrigation Department  
N.W.F.P. Peshawar.

Pr. No. 211  
03/3/2000  
Rs 210/58 pay & allow, fr.  
awarfed 1/32<sup>1</sup>/<sub>98</sub> 2 days

Annual increment

*[Signature]*  
Deputy Director  
Small Dams Directorate  
Irrigation Department  
N.W.F.P. Peshawar.

*[Signature]*  
AO  
9/15/2000

The official has granted 73 days Extra ordinary leave (without pay) w.e.f. actual date of availing vide C.E. Mr. Deptt. N.W.F.P. Peshawar Office order NO. 30688-92/1B/A/1799-Pt II: 27/12/1997 and reported departure on 3.1.1998 (F.N) and regular verified w.e.f. 05-03-96 to 02-01-1998 (AN)

ANNEX-B  
PAGE 19

GOVERNMENT OF KHYBER PAKHTUNKHWA IRRIGATION DEPARTMENT  
OFFICE OF THE CHIEF ENGINEER(SOUTH) IRRIGATION DEPARTMENT PESHAWAR.

2063  
NO. 268/IB/A/3-E (iii) In pursuance of the Section-8 of the Kyber Pakhtunkhwa Civil Servant Act 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, the Tentative Seniority list of Sub Engineers Irrigation Department having (Degree of Engineering) (Pre-Service/In service) as stood on 31-12-2018 hereby notified/circulated for general information.

S#	Name of Sub Engineer with Academic Qualification	Date of Birth	Domicile	Date of 1st Entry into Govt. Service	Regular Appointment/Promotion			Present Appointment	Remarks
					Dated	BPS	Method of Recruitment/		
1	2	3	4	5	6	7	8	9	10
1	Mohammad Hayat BSc(Civil) Engg: (Civil) Pesh: University	01/02/1960	Malakand	28/8/1986	28/8/1986	16	By initial recruitment	Sub Engineer	Sub Engineer Chitral Irr: Divn:
2	Mr. Roohul Amin BSc Civil Pesh: University, passed professional Exam: on 7/4/1995	03/03/1964	Swabi	12/12/1990	12/12/1990	16	-do-	-do-	SDO on acting charge basis in PHLC S/Divn: Swabi
3	Mr. Shoukat Badshah BSc (Civil) Engg: Pesh: University	10/02/1963	Mardan	09/12/1990	09/12/1990	16	-do-	-do-	Assistant Engineer Rehabilitation Project on acting charges basis
4	Mr. Saeedullah BSc (Civil) Engg: Nawab Shah University	05/03/1962	FR Bannu	19/03/1992	19/03/1992	16	-do-	-do-	SDO on acting charge basis.
5	Mr. Abdul Sadiq BSc (Civil) Engg: Passed Grade B Exm: on 28/12/98 Passed Grade A Exm: on 6/6/2000 Passed Professional on 24/4/2002	2/1/1969	Dir	28/03/1992	28/03/1992	16	-do-	-do-	Working as SDO (OPS) in Small Dams Directorate.
6	Mr. Bakhtiar BSc (Civil) Engg: Pesh: University. Passed Grade B Exam on 11-08-2018.	07/05/1964	Swat	19/03/1992	19/03/1992	16	-do-	-do-	SDO on acting charge basis in Dir Division.
7	Mr. Farid Ullah BSc (Civil) Engg: Pesh: University	01/05/1966	FR Bannu	16/08/1992	16/08/1992	16	-do-	-do-	SDO on acting charge basis Jani khel S/Divn: Bannu
8	Mr. Asif Khan BSc (Civil) Engg: Kabul University	01/02/1969	Malakand Agency	24/4/1995	24/4/1995	16	-do-	-do-	SDO on acting charge basis Malakand Division.
9	Mr. Yahya Hameed BSc (Civil) Engg: Pesh: University	07/04/1968	DI Khan	04/03/1996	04/03/1996	16	-do-	-do-	SDO (CPS) Flood Division DIKhan

10

10	Mr. Musharaf Shah BSc (Civil) Engg: fom UET Peshawar	04/08/1982	Mohmand Agency	17/11/2006	17/11/2006	16	-do-	-do-	SDO on acting charge basis Remodelling Project Peshawar
11	Mr. Jamshed Akram B.Sc Civil Engg: from CECOS University Peshawar. Passed Grade B Exam on 06-08-2014	20/2/1978	Tank	17/11/2006	17/11/2006	16	-do-	-do-	
12	Mr. Aftab Alam BSc (Civil) Engg: Pesh: University. Passed Grade B Exam on 28-07-2016, Grade A on 27-7-2018.	01/01/1981	Charsadda	17/11/2006	17/11/2006	16	-do-	-do-	SDO in Small Dams P&C Division Kohat
13	Mr. Javed ullah B.Sc (Civil) Engg: Iqra University Peshawar passed Grade-B exam on 11-8-2018	09/08/1984	Bannu	19-10-2010	19-10-2010	12	-do-	-do-	Sub Engineer Small Dams P&C Divn: Mardan
14	Mr. Inamullah BSc (Civil) Engg: Pesh: University. Passed Grade exam on 16-08-2018.	15/1/1982	Swat	19/11/2011	19/11/2011	12	-do-	-do-	SDO (OPS) Shangla Sub Division
15	Mr. Shahid Ali Khan BSc Civil Engg: from CECOS University Peshawar. Passed Grade B on 16-08-2018.	14/3/1983	Dir Lower	16/9/2013	16/9/2013	12	-do-	-do-	SDO (OPS) Dir Divison
16	Mr. Rizwan B.Sc Civil Engg: from UET Peshawar. Passed Grade B on 16-08-2018.	12/3/1988	DIKhan	16/9/2013	16/9/2013	12	-do-	-do-	SDO (OPS) Gomal Zam Sub Division DIKhan
17	Miss Naila Sajjad B.Sc Civil Engg: from Taxila University	30-12-1987	Abbottabad	2/10/2018	2/10/2018	12	-do-	-do-	Sub Engineer Hazara S/Divn:Abbottabad.


No. 2063 IB/A/3-E(iii)

dated Peshawar the 10/10/2019

Copy to the:-

- 1 Secretary to Govt: of Khyber Pakhtunkhwa Irrigation Department Peshawar.
- 2 Chief Engineer (North) Irrigation Department Khyber Pakhtunkhwa Peshawar
- 3 All Superintending Engineer in Irrigation Department Khyber Pakhtunkhwa Peshawar
- 4 DG Small Dam Organization Peshawar
- 5 All Executive Engineers (concerned) Irrigation Department Khyber Pakhtunkhwa
- 6 PD Bezai Irrigation scheme Mardan

They are requested to note the seniority list from all concerned for preferring appeal if any against the seniority list within one month.

  
SUPERINTENDING ENGINEER  
(HEAD QUARTER)

  
SUPERINTENDING ENGINEER  
(HEAD QUARTER)





GOVERNMENT OF KHYBER PAKHTUNKHWA  
IRRIGATION DEPARTMENT

ANNEX - C  
Page 11

Dated Peshawar 13<sup>th</sup> Dec, 2011

NOTIFICATION

NO. SO(E)/IRR:/4-5/2011 Vol-II: Consequent upon the recommendations of the Departmental Promotion Committee, the Competent Authority is pleased to appoint the following Sub Engineers to the posts of Assistant Engineers / Sub Divisional Officers (BS-17) of Irrigation Department on acting charge basis with immediate effect: -

- i. Mr. Muhammad Sadiq \_\_\_\_\_ BS-16
- ii. Mr. Muhammad Parwish
- iii. Mr. Farid Gul
- iv. Mr. Abdur Rahim
- v. Mr. Shabaz Khan
- vi. Mr. Muhammad Akhtar Jan
- vii. Mr. Inayatullah Jan
- viii. Mr. Fatihullah
- ix. Mr. Riaz Muhammad
- x. Mr. Waqar Shah
- xi. Mr. Musharaf Shah ✓
- xii. Mr. Fazli Subhan ✓
- xiii. Mr. Roshul Amin ✓
- xiv. Mr. Shoukat Badshah ✓
- xv. Mr. Saeedullah ✓
- xvi. Mr. Bakhtiar ✓
- xvii. Mr. Farid Ullah ✓
- xviii. Mr. Asif Khan ✓

2- Upon their appointment on acting charge basis as Assistant Engineers / Sub Divisional Officers (BS-17), the competent authority is further pleased to order the transfers / postings of the following officers of Irrigation Department with immediate effect, in the public interest: -

Sr. No.	Name of Officer	From	To	Remarks
1	Mr. Muhammad Sadiq	Sub Engineer, Irrigation Sub Division, Kohistan	Sub Divisional Officer, Hydrology Abbottabad	Relieving Mr. Abdur Rahim, SDO Irrigation Sub Division, Abbottabad from additional charge of the post.
2	Mr. Muhammad Parwish	Sub Engineer, Balambal Irrigation Sub Divn: Timergara	Sub Divisional Officer, Irrigation Sub Div: Chitral	Vice at Sr. No. 19
3	Mr. Farid Gul	Assistant Engineer (OPS), Leave Reserve Post in Peshawar	Assistant Engineer, Leave Reserve Post in Peshawar Canal Divn:	The officer will continue to perform the duties of AD-IV, FDRD



		Canal Divn:		
4	Mr. Abdur-Rahim	Sub Divisional Officer (OPS), Irr: Sub Divn: Abbottabad	Sub Divisional Officer, Irr: Sub Divn: Abbottabad	The officer will continue to perform his duties against his existing posting.
5	Mr. Shabaz Khan	Sub Divisional Officer (OPS), Flood Sub Divn: No. 2, Flood Divn: Peshawar	Sub Divisional Officer, Flood Sub Divn: No. 2, Flood Divn: Peshawar	The officer will continue to perform his duties against his existing posting.
6	Mr. Muhammad Akhtar Jan	Sub Divisional Officer (OPS), Mech: Irr: Sub Divn: D. I. Khan	Sub Divisional Officer, Mech: Irr: Sub Divn: D. I. Khan	The officer will continue to perform his duties against his existing posting.
7	Mr. Inayatullah Jan	Sub Engineer, Tube Well Irr: Divn: Peshawar	Sub Divisional Officer, Mech: Irr: Sub Divn: Mardan	Relieving SDO Workshop Sub Divn: Peshawar from looking after duties of the post.
8	Mr. Fatihullah	Sub Divisional Officer (OPS), Hydrology Irr: Sub Divn: Bannu	Sub Divisional Officer, Hydrology Irr: Sub Divn: Bannu	The officer will continue to perform his duties against his existing posting.
9	Mr. Riaz Muhammad	Sub Engineer, Warsak Canal Irr: Divn: Peshawar	Assistant Director, Office of the P. D. Rehabilitation of Irr: System, Pesh.	Against the vacant post.
10	Mr. Waqar Shah	Sub Engineer, Flood & Drainage Divn: Peshawar	Assistant Director, Office of the P. D. Rehabilitation of Irr: System, Pesh.	Relieving Miss. Tabinda Nosheen, AD (Rehab:) from looking after charge of the post.
11	Mr. Musharaf Shah	Sub Engineer, Mkd: Irr: Div: Mkd.	Assistant Director (Design), Office of the Chief Engineer (South), Irrigation Department.	Vice at Sr. No. 22
12	Mr. Fazli Subhan	Sub Divisional Officer (OPS), Tube Well Irr: Sub Divn: Pabbi	Sub Divisional Officer, Tube Well Irr: Sub Divn: Pabbi	The officer will continue to perform his duties against his existing posting.
13	Mr. Roohul Amin	Sub Divisional Officer (OPS), Irr: Sub Divn: Gohati, Swabi	Sub Divisional Officer, Irr: Sub Divn: Gohati, Swabi	The officer will continue to perform his duties against his existing posting.
14	Mr. Shoukat Badshah	Assistant Director (OPS), Bazai Irr: Project Mardan	Assistant Director, Bazai Irr: Project Mardan	The officer will continue to perform his duties against his existing posting.
15	Mr. Saeedullah	Sub Engineer, Irr: Sub Divn: Civil Canal Bannu	Sub Divisional Officer, Irr: Sub Divn: Shangla	Relieving SDO, Irr: Sub Divn: Swat from additional charge of the post.
16	Mr. Bakhtiar	Sub Divisional Officer (OPS), Swat Irr: Sub Divn: Swat	Sub Divisional Officer, Swat Irr: Sub Divn: Swat	The officer will continue to perform his duties against his existing posting.
17	Mr. Farid Ullah	Sub Divisional Officer (OPS), Jani Khel Irr: Sub Divn:	Sub Divisional Officer, Jani Khel Irr: Sub Divn: Bannu	The officer will continue to perform his duties against his existing posting.

(13)

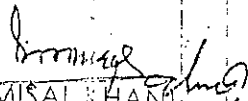
18	Mr. Asif Khan	Bannu Sub Divisional Officer (OPS), Shahbz Ghari Irr: Sub Divn: Swabi	Sub Divisional Officer, Shahbz Ghari Irr: Sub Divn: Swabi	The officer will continue to perform his duties against his existing posting.
19	Mr. Faiz ur Rehman	Sub Divisional Officer, Irr: Sub Divn: Chitral	Assistant Director (Design), Office of the Chief Engineer (South)	Against the vacant post.
20	Mr. Muhammad Idrees	Asstt: Director (Rehabilitation),	Assistant Engineer (leave reserve) Office of the Chief Engineer (South).	The officer will continue to perform his duties as Assistant Director-V; FDRD
21	Mr. Wasim Malik	Sub Divisional Officer, Hydrology Abbottabad	Assistant Engineer (leave reserve) attached with Dy: Director (Plg) O/O Chief Engineer (North).	The officer will continue to perform his duties as Dy: Project Director-II; FDRD.
22	Mr. Hazrat Hassan	Assistant Director (Design), Office of the Chief Engineer (South), Irrigation Department.	Sub. Divisional Officer, Hydrology Irr: Sub Divn: Pesh	Against the vacant post.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA  
IRRIGATION DEPARTMENT

Endst: No. & date as above.

Copy of the above is forwarded to:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Engineer (South), Irrigation Department, Peshawar.
3. The Chief Engineer (North), Irrigation Department, Peshawar.
4. The Director General, Small Dams Organization, Peshawar.
5. The Director General, Flood Damages Restoration, Khyber Pakhtunkhwa, Peshawar.
6. The Project Director Baizai Irrigation Project, Mardan.
7. The Project Director, Rehabilitation of Irrigation System, Peshawar.
8. All Superintending Engineers of Irrigation Department.
9. All the Districts Accounts Officer, in Khyber Pakhtunkhwa.
10. The Manager, Govt. Stationery & Printing Department, Peshawar.
11. PS to Minister for Irrigation Khyber Pakhtunkhwa, Peshawar.
12. PS to Chief Secretary, Khyber Pakhtunkhwa.
13. PS to Secretary, Establishment & Administration Department.
14. PS to Secretary, Irrigation Department, Peshawar.
15. Officer concerned.
16. Personal File.
17. Master File.

  
(MISAL KHAN)

Section Officer (Establishment)

No. 138 /11-E  
To

Dated DIKhan the:-

26 10/2019

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

Through: **PROPER CHANNEL**

**REMINDER**

Subject: **APPEAL FOR PROMOTION IN BPS-17**

Reference: 1. My appeal on subject matter vide No.151/1-E dated, 05-10-2018  
2. Conveyed to Chief Engineer (South) by S.E DIKhan Circle DIKhan vide his letter No.2223/DIC/1-E dated, 23-10-2018.

Kindly refer the subject application, wherein I had requested for the promotion in BPS-17 on the grounds that in the attached seniority list Mr. Musharaf Shah a person junior to me has been promoted on acting charge basis since 2011. While I have been left un-promoted in contrary to the basic principles of justice.

In the subject seniority list Mr. Musharaf Shah was inducted in to the Govt. service in October 2006 on diploma basis. However he managed to obtain B.S.C (Civil) Engineering Degree from U.E.T Peshawar, a reputed organization which offers regular degree programme to the regular students and no part time degree sessions are being conducted in the university. It has been learnt through a reliable source that the said gentleman has joined the degree programme for higher studies, while in regular service without obtaining N.O.C or availing a long study leave duly approved from the competent authority. Service rules are very much clear about it, such a degree cannot be produced for obtaining benefits surpassing the existing persons in the seniority list.

Kindly response and address my grievances, otherwise I would be left with no other option other than to knock the doors of court for justices.

YAHYA HAMEED

SUB DIVISIONAL OFFICER (OPS) BPS-16

**Enclosure:**

- i. Reference Application
- ii. Synopsis
- iii. Seniority list 2018
- iv. Secy. Irri: Notification



OFFICE OF THE CHIEF ENGINEER (SOUTH)  
GOVT: OF KHYBER PAKHTUNKHWA  
IRRIGATION DEPARTMENT PESHAWAR

Ph: 091-9212116

Fax No. 091-9212652

E-Mail: chiefoffice@yahoo.com

No. 4458/IB/A/12-E

Dated Peshawar 04 /09/2019

To

✓  
The Superintending Engineer  
DIKhan Irrigation Circle DIKhan.

ANNEX - E  
Page 1 - (15)

Subject:- APPEAL FOR PROMOTION IN BPS-17

Reference:- Your letter No.1487/DIC/1-E, dated 30-7-2019.

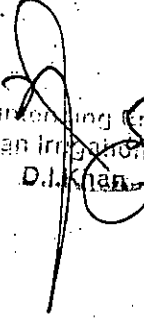
I am directed to state that Mr. Musharaf Shah was considered for appointment as Assistant Engineer/Sub Divisional Officer on acting charge basis against the separate share quota of in service Graduate Sub Engineers invouge at that time who has not affected the right of appointment on acting charge basis of Mr. Yahya Hameed Sub Engineer pre-service Graduate please.

  
SUPERINTENDING ENGINEER  
(HEADQUARTERS)

No: 1925/DIC/1-E  
Dated: 24-09-2019

XEN FLOOD

for information please

  
Superintending Engineer  
D.I.Khan Irrigation Circle  
D.I.Khan

16-9-2019

1449/1-E  
16-09-2019  
for n/a actions of Yaya Hameed / E/C/Ch  
25/09/19



ADVOCATE HIGH COURT

وکالت نامہ

16

WASIM REHMAN Advocate High Court, bc-10-4298 Date of Issue: 09-09-2013 Valid upto: 09-09-2016



Secretary KP Bar Council

کورٹ فیس

بجاء ابدالت... دعوٰی یا جرم... تفصیل دعوٰی یا جرم

باعث تحریر آنکہ... مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بیرونی وجوہات کے لئے پیش رفتیہ مقدمہ

کے حساب ذیل شرائط پر دیکھی مقرر کر کے... صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا... صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے... صاحب موصوف کے ذمہ دار نہ ہوں گے اور مقدمہ صدر پکھری کے علاوہ یا پکھری کے اوقات سے پہلے یا پکھری کے بعد یا پکھری کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا ضمانت نہ دہاؤں کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے... صاحب موصوف کو یہ بھی اختیار ہو گا کہ مقدمہ مزکورہ یا اس کے کسی جزو کی کاوائی یا بصورت درخواست نظر ثانی... صاحب موصوف کو پوری فیس تاریخ پیشگی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پروا نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے... مورخہ 04 ماہ 25 1392

مضمون وکالت نامہ من لیا ہے اور اچھی طرح لکھ لیا ہے اور منظور ہے

Acceptance... Wasim Rehman

بیسیدین

حسینی صاحب

38

**BEFORE THE KHYBER PAKHTUNHWA SERVICE  
TRIBUNAL PESHAWAR**

Appeal.No.1503/2019

Yahya Hameed Sub Divisional Officer (OPS)

**Appellant**

Versus

1&2. Secretary, to Govt: of Khyber Pakhtunkhwa  
Irrigation Department Peshawar.

**Respondents**

3. Chief Engineer (South) Irrigation Department  
Government of Khyber Pakhtunkhwa Warsak Road Peshawar.

4. Superintending Engineer (Headquarters) South Irrigation Deptt:

5. Superintending Engineer DIKhan Irrigation Circle DIKhan.

6. Executive Engineer Flood Irrigation Division DIKhan

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 TO 6**

**Respectfully sheweth**

**Preliminary Objections**

1. That the appellant has no cause of action.
2. That the appellant has not come to the Tribunal with clean hand.
3. That the appeal is bad for mis joinder and non joinder of necessary parties.
4. That the appellant have no locus standi.
5. That the appeal is time barred.
6. That the appellant is estopped under the law of estoppel (Article 114 of Qanoon Shahdat 1984 is attached)
- 7.

**Objections on Facts**

1. That para No.I pertains to record , needs no comments
2. Correct, to the extent that respondent No.7 was appointed as Sub Engineer on 17-11-2006. However the appellant is pre-service Graduate Sub Engineer while the respondent No.7 is In Service Graduate Sub Engineer. At the time of appointment of appellant as Sub Engineer ,method of recruitment for the post of Sub Divisional Officer/Assistant-Engineers BS-17 under Sl:No.4 of the Appendix to the Notification No.SOR-I(S&GAD)1-12/74,dated 30-4-1979 read with notification No.SO(E)PHED/6-12/94,dated 30-5-1995 (Annexure-I) was as under:-

- a) **Seventy percent by initial recruitment and**
- b)(i) **5% by promotion on the basis of seniority-cum-fitness from amongst the Sub Engineers who have acquired degree in Engineering during service;**
- (ii) **5% by promotion on the basis of seniority -cum-fitness from amongst the Sub Engineers who have joined service as Graduate Engineer;**

provided that if no Sub Engineer in a category is available for promotion, the vacancy shall be filled in from the other category ; and

- c) **Twenty percent by selection on merit with due regard to seniority from amongst officiating Assistant Engineers of the Department concerned in which the vacancy occurs who hold a diploma**

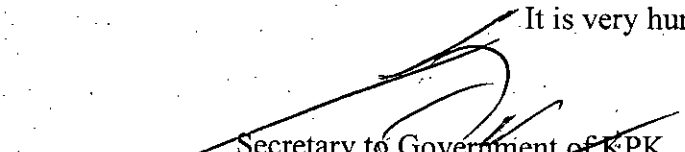
On the basis of the above and in light of Notification No.SO(E)IRR/23-5/73, dated 27-2-1999 (Annexure-II), separate seniority lists of In service/Pre-service Engineers were maintained vide No.6854-59/IB/A/3-E(iii),dated 21-3-2011 and No.5331IB/A/3-E(iii) dated 20-9-2011 (Annexure-III and IV). The appellant was at Sl:No.9 of the seniority list of pre-service Graduate Sub Engineer while the respondent was at Sl:No.2 of the seniority list of In-service Graduate Sub Engineers.

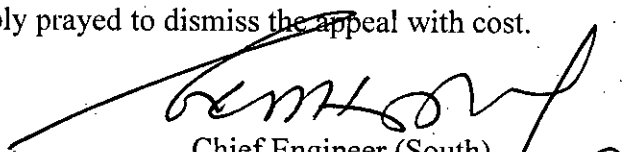
- 3. In-Correct, Appointment on Acting Charge basis from both the categories (i.e In Service and pre-service Sub Engineers) was considered through Departmental Promotion Committee in its meeting held on 16-11-2011. The appellant at Sl:No.9 being junior most was not considered.
- 4. In-correct the Departmental appeal of the appellant was badly time barred and without lawful authority was therefore not considered.

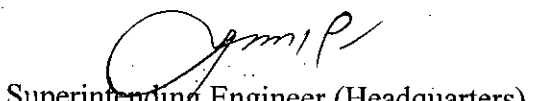
**GROUNDS**

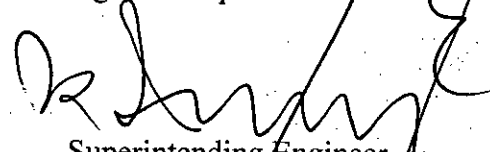
- A. No comments.
- B. In-correct, Respondent No.7 was senior and eligible. He was appointed as Assistant Engineer BS-17 on acting charge basis while the appellant was most junior amongst the pre-service Sub Engineers therefore he was not considered suitable for appointment as Assistant Engineer BS-17 at that time.
- C. In-correct, the appeal of the appellant was time barred and as such not considered.
- D. The respondents also seek permission to submit additional grounds at the time of arguments.
- E.

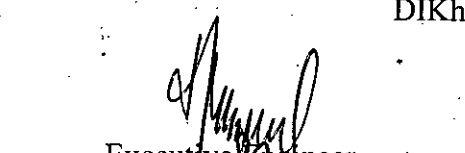
It is very humbly prayed to dismiss the appeal with cost.

  
 Secretary to Government of KPK  
 Irrigation Department

  
 Chief Engineer (South)  
 Irrigation Department

  
 Superintending Engineer (Headquarters)  
 Irrigation Department

  
 Superintending Engineer  
 DIKhan Irrigation Circle DIKhan

  
 Executive Engineer  
 Flood Irrigation Division DIKhan

L20

**BEFORE THE KHYBER PAKHTUNHWA SERVICE  
TRIBUNAL PESHAWAR**

Appeal.No.1503/2019

Yahya Hameed Sub Divisional Officer (OPS)

**Appellant**

Versus

1&2. Secretary, to Govt: of Khyber Pakhtunkhwa  
Irrigation Department Peshawar.


**Respondents**


3. Chief Engineer (South) Irrigation Department  
Government of Khyber Pakhtunkhwa Warsak Road Peshawar.
4. Superintending Engineer (Headquarters) South Irrigation Deptt:
5. Superintending Engineer DIKhan Irrigation Circle DIKhan.
6. Executive Engineer Flood Irrigation Division DIKhan

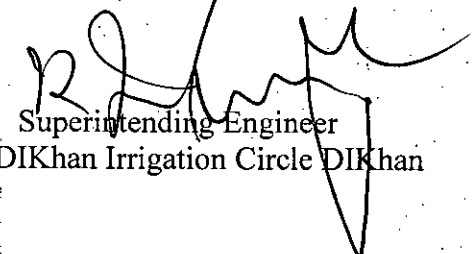
**COUNTER AFFIDAVIT**

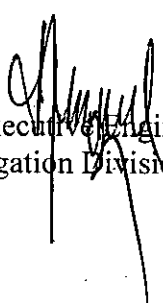
We do hereby solemnly affirm and declare that contents of the parawise comments in Service Appeal No.1503/2019 filed by Mr. Yahya Hameed Sub Divisional Officer (OPS) are correct to the best of our knowledge and nothing has been concealed from August Service Tribunal.

  
Secretary to Government of KPK  
Irrigation Department

  
Chief Engineer (South)  
Irrigation Department

  
Superintending Engineer (Headquarters)  
Irrigation Department

  
Superintending Engineer  
DIKhan Irrigation Circle DIKhan

  
Executive Engineer  
Flood Irrigation Division DIKhan



GOVERNMENT OF N.W.F.P.  
IRRIGATION DEPARTMENT.

Dated Pesh: the 27/02/1999

NOTIFICATION

GOVERNMENT/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 the Irrigation and Public Health Engineering Department, in consultation with the Services and General Administration Department and the Finance Department, hereby directs that in the North-West Frontier Province Irrigation and Public Health Engineering Department (Recruitment and Appointment) Rules, 1979, the following further amendments shall be made namely:-

AMENDMENT

In the Schedule:

(i) For the existing entries in column 7 against serial No.4, the following shall be substituted namely.

(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, who hold a Diploma in Engineering and have passed Departmental Examination;

GOVERNMENT OF NWFP  
PUBLIC HEALTH ENGINEERING  
DEPARTMENT

Dated Peshawar, the 30/5/1994

NOTIFICATION

No. SO(E)PHED/6-12/94 In exercise of the powers conferred by Section 26 of the North West Frontier Province Civil Servants Act, 1973 (NWFP Act XVIII of 1973), the Governor of North West Frontier Province is pleased to direct that in the North West Frontier Province Irrigation & Public Health Engineering Department (Recruitment & Appointment) Rules, 1979, the following further amendment shall be made, namely:-

AMENDMENT

In the Schedule, in column 7, against serial No. 4, for Clause (b) the following shall be substituted, namely:-

- (1) (1) 5% by promotion on the basis of seniority-cum-eligibility from amongst the Sub Engineers who have acquired degree in Engineering during service;
- (2) 5% by promotion on the basis of seniority-cum-eligibility from amongst the Sub Engineers who have joined service as Graduate Engineer;

Provided that, if no Sub Engineer in a category is available for promotion, the vacancy shall be filled in from the other category, and

SECRETARY TO GOVT OF NWFP  
PUBLIC HEALTH ENGINEERING  
DEPARTMENT

Order No. SO(E)PHED/6-12/94 dated Peshawar, the 30/5/1994

Copy forwarded for information and necessary action to:-

- 1. Administrative Secretaries to Govt of NWFP.
- 2. Secretary to Govt NWFP, Peshawar.
- 3. Secretary to Chief Minister, NWFP, Peshawar.
- 4. Private Secretary to Chief Secretary, NWFP, Peshawar.
- 5. Chief Engineer, W.I.E.D., NWFP, Peshawar.
- 6. Chief Engineer (Dev), W.I.E.D., NWFP, Peshawar.
- 7. Section Officer (Gen) to PHED, Department, Peshawar with reference to the letter No. SO(E)PHED/S&GD/9-24/94 dated 30.5.1994.
- 8. Mr. Asif Ullah (Draftsman), Govt of NWFP, Law Department, Peshawar, for reference to his letter No. Reg-1(B)/76-2864 dated 25.6.1994.

The Manager, Government Printing & Stationery Department, Peshawar, for publication in the next issue of Government Gazette. It is requested that 30 printed copies of the notification may kindly be supplied to this Department for further circulation.

ABDOL HAZIR KHAN

450  
28/3/11

PS/Secy Irrigation  
Diry No- 206  
Date- 21/3/11

**IRRIGATION DEPARTMENT KHYBER PAKHTUNKHWA**

Final Seniority List of in Service Graduate Sub Engineers Irrigation Department Khyber Pakhtunkhwa as stood on 31/12/2010

S#	Name of Sub Engineer with Academic Qualification	Date of Birth	Domicile	Date of 1 <sup>st</sup> entry into Govt. Service	Regular Appointment/Promotion			Present Appointment	Remarks
					Date	BPS	Method of Recruitment		
1	Mr. Fazie Mula S/O Ghulam Yahya BSc Civil Engineering from Saratov Stae Tech: University Russia	20-01-1969	Malakand Agency	19-01-1995	05-06-2006	11	By promotion	Sub Engineer	Acquired BSc Civil Engineering on 22-06-2001
2	Mr. Mushraf Shah S/O Yousaf Shah BSc Civil Engineering from University of Engineering & Technology Peshawar	04-08-1982	Mohmand Agency	29-11-2006	29-11-2006	11	By initial recruitment	Sub Engineer	Acquired BSc Civil Engineering on 28-08-2009

SUPERINTENDING ENGINEER  
(Head Quarter)

Dated Peshawar the <sup>21</sup> /03/2011.

No. 6854-59 /IB/A/3-E(iii)

Copy to the above is forwarded to the:-

1. Secretary to Govt. of Khyber Pakhtunkhwa, Irrigation Department Peshawar.
2. Chief Engineer (Dev.), Irrigation Department Peshawar.
3. Director General Small Dams Organization Peshawar.
4. Project Director, Bezal Irrigation Project Mardan.
5. Official Concerned.
6. *GEN MKD inq. Div: MKD.*

*[Signature]*  
SUPERINTENDING ENGINEER

24/3  
Secy Irrigation

*[Signature]*  
24/3/2011

Allen: SO (E) / 10/10/10

IRRIGATION DEPARTMENT KHAYEER PAKHTUNKHWA  
 FINAL SENIORITY LIST OF GRADUATE SUB ENGINEERS WHO JOINED SERVICE ON THE BASIS OF GRADUATION IN THE DEPARTMENT AS STOOD ON 31.12.2010

Notification No. 5371  
 18/A/3-Engg dated Peshawar the 21/09/2011

Sl No	Name of Sub Engineer with Academic Qualification	Date of Birth	Domicile	Date of 1st Govt. Service	Regular Appointment/Promotion		BPS	Method of Recruitment	Present Appointment	Remarks
					Date	By Initial recruitment				
1	Mohammad Hayat BSc Engg (Civil) Pesh. University	01/02/1990	Imrakand	28/3/1998	23/6/1998	11	By initial recruitment	Sub Engineer Working as SDO (OP/S) Sub Engineer		
2	Mr. Fazil Subhan BSc (Mech.) Pesh. University	30/03/1993	Mardan	9/12/1999	3/12/1999	11	-do-	-do-		
3	Mr. Poonul Amin BSc Civil Pesh. University	03/03/1984	Swabi	12/12/1990	12/12/1990	11	-do-	-do-		
4	Mr. Snoukat Badshah BSc (Civil) Pesh. University	10/02/1993	Mardan	09/12/1990	09/12/1990	11	-do-	-do-	Sub Engineer	
5	Mr. Saadullah BSc (Civil) Engg. Nawab Shah University	05/03/1992	FR Bannu	19/03/1992	19/03/1992	11	-do-	-do-	SDO (OP/S)	
6	Mr. Bakhtiar BSc (Civil) Engg. Pesh. University	07/05/1964	Swat	19/03/1992	19/03/1992	11	-do-	-do-		
7	Mr. Fatah Ullah BSc (Civil) Engg. Pesh. University	07/05/1990	FR Bannu	16/08/1992	15/03/1992	11	-do-	-do-		
8	Mr. Asif Khan BSc (Civil) Engg. Kabul University	10/02/1990	IMSHKAND AGENCY	24/4/1996	24/4/1996	11	-do-	-do-	Sub Engineer	
9	Mr. Yahya Hameed BSc (Civil) Engg. Pesh. University	10/10/1991	Charsadda	04/03/1996	04/03/1996	11	-do-	-do-		
10	Mr. Akbar Alam BSc (Civil) Engg. Pesh. University	10/10/1991	Charsadda	17/1/2006	17/1/2006	11	-do-	-do-		

*[Signature]*  
 ADMINISTRATIVE OFFICER

18/A/3-Engg dated Peshawar the 21/09/2011

dated Peshawar the 26 /09/2011

No. 5332-48  
IB/A/3-E(iii)

- Copy to the:-
- 1 Secretary to Govt: of Khyber Pakhtunkhwa Irrigation Department Peshawar.
  - 2 Chief Engineer (North) Irrigation Department, Khyber Pakhtunkhwa Peshawar.
  - 3 All Superintending Engineer in Irrigation Department Khyber Pakhtunkhwa Peshawar.
  - 4 DG Small Dam Organization Peshawar.
  - 5 All Executive Engineers (concerned) Irrigation Department Khyber Pakhtunkhwa.
  - 6 PD Bezal Irrigation scheme Mardan

*Qth*

*[Signature]*

ADMINISTRATIVE OFFICER

01 NOV 2011 11:23:53  
FOX NO. 001 9212652

FRONT PAGE SOUTH

D:\Data\draft\Final Seniority list of Graduate Sub Engineers

GOVERNMENT OF N.W.F.P.  
IRRIGATION DEPARTMENT.

Dated Pesh: the 27/02/1999

NOTIFICATION

SO(E)IFR/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 the Irrigation and Public Health Engineering Department, in consultation with the Services and General Administration Department and the Finance Department, hereby directs that in the North-West Frontier Province Irrigation and Public Health Engineering Department (Recruitment and Appointment) Rules, 1979, the following further amendments shall be made namely:-

AMENDMENT

In the Schedule;

(i) For the existing entries in column 7 against serial No.4, the following shall be substituted namely.

- (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, who hold a Diploma in Engineering and have passed Departmental Examination;