

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1101/2016

Date of Institution ... 18.10.2016

Date of Decision ... 12.09.2017

Asad Ullah Khan, Section Officer Home Department
Civil Secretariat, Peshawar (Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Establishment Civil
Secretariat, Khyber Pakhtunkhwa Peshawar and another. ... (Respondents)

MR. AMJAD ALI,
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate General

... For respondents.

MR. AHMAD HASSAN, ...
MR. MUHAMMAD HAMID MUGHAL ...

MEMBER(Executive)
MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the
parties heard and record perused.

FACTS

2. The brief facts are that the present appeal has been filed against
impugned order dated 17.06.2016 for non-inclusion of the name of the
appellant in the said promotion order while juniors to him were promoted to
BPS-18. His case was deferred having not completed mandatory training
which is against the promotion Policy 2009, PMS Rules 2007 and order dated
15.06.2016 passed by the C.M, Khyber Pakhtunkhwa on a summary moved
by the respondents. He preferred departmental appeal/representation dated

21.07.2016 which remained un-responded after statutory period, hence the instant service appeal.

ARGUMENTS

3. The learned counsel for the appellant argued that he had passed Departmental Examination in parts. Mandatory training was not offered to him by the respondents from 2009 to 2015. The appellant was nominated for mandatory required for promotion to BPS-18 on 29.12.2015. He reported at the Provincial Services Academy on 03.01.2016, but training was postponed/dropped due to reasons best known to the respondents. Subsequently, the PSB in its meeting held on 10.05.2016 promoted officers junior to the appellant to BPS-18 w.e.f 27.05.2016, while his case was deferred having not completed the said training. Recommendations of PSB were submitted to the Chief Minister, Khyber Pakhtunkhwa for approval. While granting approval directions were given to the respondents to promote the deferred officers conditionally and they will complete the training as and when offered. These directions of Chief Minister were not complied with by the respondents. Afterwards training was offered to the appellant and completed on 11.11.2016. Learned counsel for the appellant vehemently contested that aforementioned training was not required for him as he had passed the departmental examination. He also relied on Promotion Policy 2009 to substantiate his arguments. Appellant was not treated according to law/rules.

4. On the other hand the Learned Additional Advocate General argued that as the appellant was junior and not in promotion zone, hence, not nominated for mandatory for promotion BPS-18. The training was stopped as case regarding amendments in PMS Rules 2007 to reduce the duration from 18 months to 14 weeks was under process. As he had not undergone the said training so the PSB rightly deferred his promotion case. Case of the appellant was again placed before the PSB.

after completion of training but was deferred due to pending disciplinary proceedings. According to Rule-4(A) of PMS rules, 2009, 14 weeks training is mandatory for PMS BPS-17 officer appointed either through promotion/initial recruitment for promotion to BPS-18.

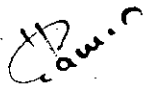
CONCLUSION.

5. Careful perusal of record reveals that provision regarding training contained in Rule-4(A) of Khyber Pakhtunkhwa PMS Rules 2007 is mandatory. Learned counsel for the appellant repeatedly contested that as he had passed departmental examination so the said training was not required. When confronted on the point that if it was not a requirement of the rules why the appellant underwent this training? He had no plausible explanation but merely relied on Promotion Policy 2009, which has least relevance with the case in hand. Promotion of the appellant to BPS-18 was deferred by the PSB in its meeting held on 10.05.2016 as he had not completed mandatory training. Contention of learned counsel for the appellant that officers junior to the appellant were promoted is not based on facts. It merits to mention here that aforementioned officers had attained the age of 50, so vide Establishment Department letter dated 06.04.2013 they were exempted from mandatory pre-service training, as provided in Rule-4(A) of PMS Rules 2007.

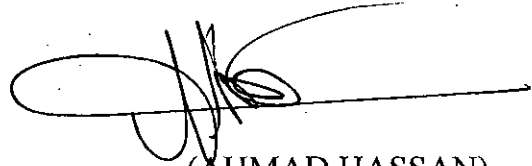
6. The appellant was nominated by respondent no.1 for mandatory training on 29.12.2015 but the same was postponed as case for amendments in PMS Rules 2007 to reduce the duration of above training from 18 months to 14 months was under process. Again his case was placed before the PSB when he had completed the mandatory training but was deferred due to pending disciplinary proceedings. In

view of advice of the Law Department conveyed through letter dated 02.07.2016 it should not have been deferred.

7. In view of the afore-going, the appeal is accepted to the extent that promotion case of the appellant be placed before the PSB for consideration in accordance with rules. Parties are left to bear their own costs. File be consigned to the record room.



(MUHAMMAD HAMID MUGHAL)
MEMBER



(AHMAD HASSAN)
MEMBER

ANNOUNCED
12.09.2017

Order

12.09.2017

Counsel for the appellant and Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Saleem Khan, SO for respondents present. Arguments heard and record perused.

Vide detailed judgment of today of this Tribunal placed on file, the instant appeal is accepted to the extent that promotion case of the ^{appellant} be placed before the PSB for consideration in accordance with rules. No order as to cost. File be consigned to the record room.

Announced:
12.09.2017

Hamid

(Muhammad Hamid Mughal)
Member



(Ahmad Hassan)
Member



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

12/5

NO.SOI-II(ED) 3(81)/2012

Dated Peshawar the April, 06, 2012

To

1. Additional Chief Secretary, P&D Department.
2. Additional Chief Secretary, FATA.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. All Distt: Coordination Officers in Khyber Pakhtunkhwa.
9. All Political Agents in FATA.
10. Director General, Pakistan Provincial Services Academy, Peshawar.
11. Director, Staff Training Institute, Establishment Department.

Subject:- SIX MONTHS MANDATORY TRAINING FOR PMS BS-17 PROMOTEES OFFICERS.

Dear Sir,

I am directed to refer to the captioned subject and to state that the competent authority is pleased to decide that officers who are appointed to Provincial Management Service (PMS) BS-17 on promotion will be exempted from the mandatory pre-service training as provided in Rule 4-A of the Provincial Management Service Rules 2007 on attaining the age of 50 years or above on 1st July of the year in which the training is scheduled or promotion is being considered.

2. This policy is effective from the date of its issuance.

Yours faithfully,

Faryal Kazim
(FARYAL KAZIM)
SECTION OFFICER(II-II)

Jan 2014-19

ENDST: NO & DATE EVEN

Copy forwarded for information to the:-

1. PS to Chief Secretary, Khyber Pakhtunkhwa.
2. PS to Secretary Establishment.
3. PS to Special Secretary, Establishment Department.
4. PA to Additional Secretary(Istt) /Dy. Secretary(Istt), I&A Department.
5. PA to Director Protocol, Administration Department.
6. Section Officer (I-II)/SO(Secret), Establishment Department.

JA 6/4
1/14
du/12
2.14.2012

Amir 6/4

2012/06/04

CLP 06/04/12

Faryal

Judgment.
BEFORE PESHAWAR HIGH COURT,
PESHAWAR.

Judicial Department.

Writ Petition 04-P of 2016.

Asadullah Khan.....Petitioner.

Vs

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

Date of hearing.....13th July, 2016.....

Petitioner(s) by Mr. Amjad Ali, Advocate.

Respondent(s) by M/s Kifayatullah DAG & Mian Arshad Jan, AAG.

WAQAR AHMAD SETH, J: - Asadullah Khan,

Section Officer, Labour Department, hereinafter called the

petitioner has invoked the constitutional jurisdiction of Court

with the following prayer:-

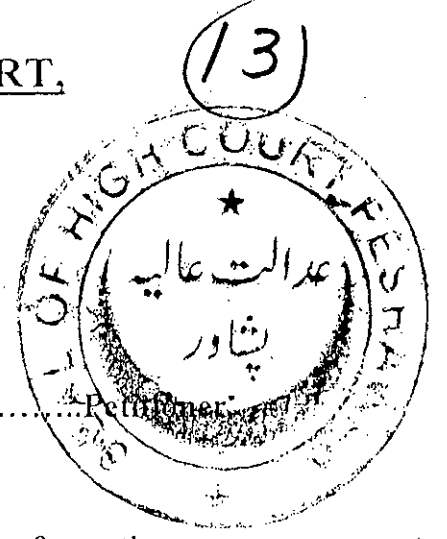
“It is humbly prayed that on acceptance of this writ petition, the respondents may please be directed to exempt the petitioner from 18 months pre-service training for the purpose of promotion from BPS-17 to BPS-18 and may please be considered for promotion from BPS-17 to BPS-18 in the next coming P.S.B on the basis of ACRs only as envisaged in the Promotion Policy, 2009”.

2. The pithily facts of the case are that, in the year 1998
petitioner was appointed as Naib Tehsildar BPS-14 and on

ATTESTED

EXAMINER
Peshawar High Court

13 JULY 2016



03.03.2009 he was inducted in Provincial Management Service Group (BS-17) and presently he is holding the post of Section Officer, Labour Department. The respondents in order to fill the vacant posts of PMS BS-18, has addressed a letter to petitioner vide No. PPSA/TRG/PMS-634 dated 20th December, 2015 to report and join the Pre-service Course of Provincial Management Services (PMS) at Pakistan Provincial Services Academy (PPSA), Peshawar, which as per assertion of petitioner is illegal, unlawful because he has at his credit more than 17 years service and the said training is necessary / essential for fresh recruit. Hence the instant writ petition.

3. Comments were called from respondents which they furnished and stated that petitioner being too junior has never been considered in PSB for his promotion to BS-18 and at present 12 vacant vacancies are available and petitioner as per tentative seniority list is at serial No.30. That Establishment Department has prepared working paper on the basis of vacant position and being submitted to PSB for consideration of promotion. According to PMS Rules, 2007 every PMS BS-17 officer, whether by initial recruitment or by promotion has to undergo 18 months mandatory training. Pakistan Provincial

ATTESTED

EXAMINER
Peshawar High Court

25 JUL 2016

Services Academy was only requested to apprise whether it can accommodate 12 PMS BS-17 officer (promoted from Tehsildar cadre including the petitioner) alongwith 44 directly recruited PMS BS-17 officer or otherwise.

(15)

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

5. Petitioner being a PMS, BS-17 officer has challenged one and a half year Training Course which is mandatory for every PMS Officer, under Khyber Pakhtunkhwa, PMS Rules, 2007 and to this effect the relevant provision / rules i.e 4-A introduced vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) dated 12.11.2007, which reads as under:-

[4-A Training.---On appointment to the post borne on the service in BS-17, whether by initial recruitment or by promotion, every officer so appointed shall successfully complete one and a half years mandatory training including one year at the Provincial Service Academy as per Module specified in Schedule-IV and six months training attachment as specified in Schedule-V. The training will be followed by Departmental examination to be conducted by the Provincial Service Academy as specified in Schedule-VI".

ATTESTED
 EXAMINER
 Peshawar High Court
 25 JUL 2016

6. Since the introduction of above quoted Rule, Pre-Service Training Course for one and a half year is mandatory for all the officers / civil servants to a post borne on the service in BPS-17, whether by initial recruitment or by promotion. At the time of arguments learned counsel for petitioner placed on record a notification No. SOE.II(ED)2(14)2015 dated Peshawar the November 27, 2015, whereby certain amendments have been made. The petitioner stated that the said notification cannot be made applicable to the petitioner by compelling him to the mandatory Pre-Service Training Course, as he was appointed as Naib Tehsildar through KPK Public Service Commission in the year 1998 and he has completed different courses and examination in his service career including one year pre-service training i.e six months revenue and six months settlement, successfully completion of training for the post of Naib Tehsildar and other departmental examination mandatory for Assistant Commissioner etc, and as such, he cannot be compelled to go through the instant pre-service training course.

7. We have gone through the said amendment but are of the view that there is no amendment in the one and a half year mandatory pre-service training course as per Rule-4-A of

16

APPROVED
25.11.2015

KPK Provincial Management Service Rules, 2007, rather the schedule-IV has been amended / substituted vide Notification dated 27th November, 2015. The said mandatory pre-service training course is the requirement since the insertion of section 4-A in the rules ibid, 2007.

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8. The purpose of insertion of pre-service training courses have been designed to build the capacity of recruits / officers and to polish their personality in Provincial Management Services of Khyber Pakhtunkhwa, so as to trained them for handling their future assignments. The basic aim of these courses is to develop their knowledge, skills and leadership potentials so as to optimize efficiency, effectiveness and economy in public service processes for better service delivery at the optional / technical level to create public value and win public trust. It is the right and prerogative of the employer / government to enhance the qualification and standards for recruitment and promotion in order to maintain efficiency in service and as such no one can claim a vested right in promotion or in the terms and conditions for promotion to a higher post. In the case of Government of N.-W.F.P, Health & Social Department Vs Dr. Sheik Muzaffar Iqbal and

ATTESTED

EXAMINER
Peshawar High Court

25 JUL 2016

others; reported in 19990 SCMR-1524 (h) it has been held as

(18)

under:-

---Promotion---No one claim a vested right in promotion or in the terms and conditions for promotion to a higher post---Government has the right to enhance the qualification and standards for recruitment and promotion in order to maintain efficiency in service--- Except for the post which the civil servant happens to hold, he cannot claim vested right in other higher tiers in the hierarchy.

Likewise, in the case of Muhammad Siddique Vs Secretary to Government of Pakistan, Ministry of Education and 2 others, reported in PLD 1996 SC-197, it has been held that:-

---Art. 212(3)---Selection Grade---Civil servants entitlement to be placed in Selection Grade B-15)---Finance Division O.M. No. F1 (2)2R.1/91-762 dated 18.7.1991, whereby one third of total strength of Physical Training Instructors who were holding qualification of BA/BSc 2nd Division plus prescribed professional qualification were entitled to be placed in Selection Grade (B-15)---Civil servant who lacked said educational qualification of B/S/BS.c 2nd division was not covered by Office Memorandum of Finance Division---Service Tribunal found that appeal of civil servant for entitlement of selection grade was incompetent and not maintainable---Validity—Finance division or any department or division of government was not debarred from prescribing and / or revisional educational or professional qualification for enhancement of efficiency in service of cadre---Government has the right to enhance qualification and standards for

ATTESTED

EXAMINER
Peshawar High Court

25 JUL 2016

recruitment and promotion in order to maintain efficiency in service---Nobody could claim any vested right in such policy to government---Civil servant was not found entitled to selection grade---Leave to appeal was refused in circumstances.

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9. The apex Court of the country, while upholding the above consistent views in reference to tracheotomy of power in the case of Executive District Officer (Revenue) District Khushab at Jauharabad and others Vs Ijaz Hussain and another, reported in 2011 SCMR-1864 has held which reads as under:-

---S.4---Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974, R. 17---Constitution of Pakistan,, Preamble---Recruitment, process of---Policy matter---Academic qualification and interview marks---Ratio---Trichotomy of power---Scope---Respondents were unsuccessful in selection of patwari's and assailed process of selection on the ground that recruitment policy was defective as it had reserved 60% marks for academic qualification and 40% for interview---High Court, in exercise of constitutional jurisdiction directed the Provincial Government to amend the recruitment policy and marks for interview should not exceed 25% of the total marks---Authorities contended that High Court could not have issued directions to amend recruitment policy as such power fell within policy making domain of the executive authority---Validity---Recruitment policy was framed by Provincial Government as part of delegated legislation and its provisions could not have been struck down on vague consideration of being "unreasonable" or likely to be misused---Presumption was that those who exercise

RECEIVED
 JUDGE
 23 JUL 2016

such powers would have done it in a bona fide manner and if such power was exercised in a mala fide manner, it was the particular mala fide act which could be challenged and struck down---Provisions did not become unconstitutional violative of fundamental rights or unreasonable simply because it could be abused because any provisions of law could be misused if the wielder of power so intended---Framing of recruitment policy and rules thereunder, fell in the executive domain---Constitution of Pakistan was based on the principle of trichotomy of powers where legislature was vested with the functions of law making the executive with its enforcement and judiciary of interpreting the law---Courts could neither assume the role of policy maker nor that of a law maker, therefore, to such extent the judgment passed by High Court was set aside".

(20)

10. The Hon'ble Apex Court has further dilated upon the issue while deciding the case of Dr. Ilyas Qadeer Tahir Vs Secretary M/O Education reported in 2014 SCMR-997 by

holding that:-

---promotion---Conditions/eligibility---Rules / conditions / qualification for promotion to higher posts not existing at time of appointment of civil servant but only enacted subsequent to appointment---Legality---contention of civil servant that requirement of a Master's degree for promotion did not exist at the time of his appointment, therefore it could not be made a requirement for promotion at a subsequent stage just to debar him from promotion to the next scale--
-Validity---Such contention was not legally and logically tenable---Enactments of rules and amendments therein was the prerogative of the Government---Government could enact and amend rules according to the needs and exigencies of service---Institutional interest shaped structure of a appointment of

civil servant in question, no rules (for promotion) were enacted or enforced but that did not mean that the institution or department could not change the rules subsequently---Institutions / departments right to improve and update its service structure to keep pace with modern age could not be restrained or restricted on the ground that at the time of appointment of a civil servant, a certain qualification was not a requirement for promotion---Vires of validity of rules or amendments therein attending to qualification for promotion could not be looked askance at when there was absolutely nothing in the rule to show that they were either person specified or an off shoot of malafides.

(21)

11. In view of the above consistent view of the apex court regarding framing of rules and criteria for the purpose of promotion and recruitment etc. as cited above, it is held that Rule-4-A is beneficial for the employees for the purpose of promotion etc and as such cannot be challenged and that too; after more than eight years.

12. As regarding the maintainability of writ petition in view of Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, as raised by the learned AAG is concerned the same controversy has been laid to rest way back, in the case of I.A Shirwani and others Vs Government of Pakistan, reported in 1999 SCMR-1041 (d) wherein it has been held that any Statutory Rule or a Notification of amendment etc

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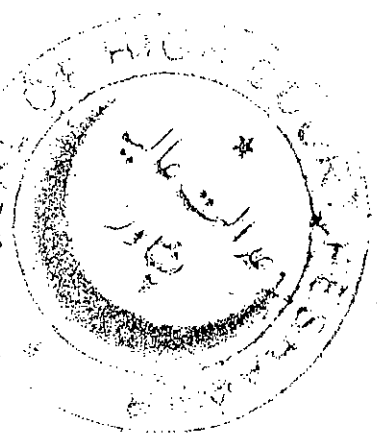
EXAMINER
Peshawar High Court

25 JUL 2016

adversely effects the terms and conditions of civil servant, the same can be treated as an order in terms of section 4 (i) in order to file an appeal before the Service Tribunal. The Hon'ble Apex Court while reiterating the said ruling in the case of Government of the Punjab and others Vs Muhammad Zafar Bhatti and others, reported in PLD 2004 SC 317 (b) has held which reads as under:-

(22)

---S.4---Constitution of Pakistan (1973), Arts. 199 & 212---Vires of amendment in rules regarding promotion---Jurisdiction of High Court under Art. 199 of the Constitution---Amendment made by the Authorities in rules regarding promotion was assailed before High Court under Art. 199 of the Constitution, y the civil servants---High Court declared the amendment as ultra vires of the vested right of the civil servants---Plea raised by the Authorities was that under Art. 212 of the Constitution, the jurisdiction of High Court was barred as the matter pertained to terms and conditions of service--Validity---Remedy for the civil servants was to file appeal before Service Tribunal and jurisdiction of High Court in such manner was barred---Judgment passed by the High Court was set aside.



13. For the reasons recorded hereinabove this writ petition being bereft of any legal substance is hereby dismissed.

No order as to cost.

at Misab Hussain Khan. J
at Waseer Ahmad Khan. J

552

Announced. 13th JULY, 2016

No. of Pages 17

Copying fee

Urgent fee

Total 34.00

Date of Receipt of Copy 25-07-16

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JUDGE

JUDGE

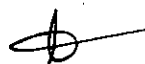
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Examiner
Peshawar High Court, Peshawar
Authorized Under Article 8
The Constitution of Pakistan

25 JUL 2016

25.04.2017


Counsel for the appellant and Addl: AG for the respondents present. Written reply submitted. To come up for rejoinder and arguments on 11.07.2017 before D.B.


(Ahmad Hassan)
Member

11.07.2017

Appellant alongwith counsel and Mr. Ziaullah, DDA for the respondents present.

The learned counsel for the appellant argued the case at some length but when this Tribunal put a query to the learned counsel for the appellant that in the present case the main issue is that the concerned promotion committee has not promoted the appellant due to pendency of some disciplinary proceedings and in view of Section 4(b)(i) such matter, perhaps is outside the jurisdiction of this Tribunal, the learned counsel was of the view that this is not a matter of fitness but eligibility, therefore, the case of the appellant is not hit by the provisions referred to above. The learned counsel for the appellant is not fully equipped with the law and rulings on the subject. He seeks adjournment. Request is accepted and the appeal is adjourned. To come up for arguments on 12.09.2017 before the D.B.


Member


Chairman

09.02.2017

Counsel for the appellant present. Preliminary arguments heard. Counsel for the respondent through the AG for the appellant has impugned promotion order dated 17.06.2016 and which the appellant was debarred from promotion due to non-availing of training. Against the impugned order appellant filed departmental appeal on 21.06.2016 which was not decided within statutory period, hence the instant service appeal. (Ahmad Hassan)
Member

Appellant Deposited
Security & Process Fee

Since the appeal pertains to terms and conditions of services of the appellant and required further consideration of this Tribunal therefore, the same is admitted for regular hearing, subject to deposit of security and process fee within 10 days. Notices be issued to the respondents for written reply/comments for 09.03.2017 before S.B.

(Muhammad Amir Nazir)
Member

09.03.2017

Counsel for the appellant and Addl: AG for the respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 25/04/2017 before S.B.

(MUHAMMAD AAMIR NAZIR)
MEMBER

08.11.2016

Appellant in person present. Preliminary arguments partly heard. Since the matter required further elucidation, therefore, pre-admission notice be issued to the AAG to assist the Tribunal. To come up for further preliminary hearing on 09.01.2017.


(PIR BAKHSH SHAH)
MEMBER

09.01.2017

None present on behalf of the appellant. Additional AG for the respondents present. Notice be issued to appellant and his counsel for preliminary hearing for 26.01.2017 before S.B.


Chairman

26.1.2017

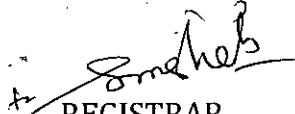

Appellant present in person and Addl. AG also present. Appellant requested for adjournment as his counsel is stated busy before the Hon'ble Darul Qaza Swat. Adjourned for preliminary hearing to 09.02.2017 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1101/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	27/10/2016	<p style="text-align: center;">The appeal of Mr. Assad Ullah Khan resubmitted today by Mr. Amjid Ali Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	31.10-2016	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08-11-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>


This is an appeal filed by Mr. Asad Ullah Khan today on 18/10/2016 against the order dated 17/06/2016 against which he preferred/made departmental appeal/ representation on 21.07.2016 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 and also removing the following deficiencies.

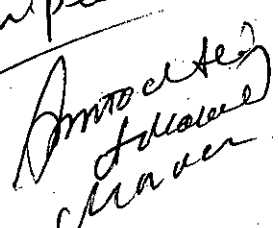

- 1- Affidavit may be got attested by the Oath Commissioner.
- 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Approved file cover is not used.
- 5- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1728/ST,

Dt. 19/10/2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Amjid Ali Adv. Mardan.

Sis. all objections have been
removed and received
after completion

Amjid Ali Adv. Mardan 

**BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR**

Service Appeal No. 1101/2016

Asad -Ullah Khan Section Officer Home Department Civil Secretariat
Khyber Pakhtunkhwa PeshawarAppellant

VERSUS

1. Govt. of Khyber Pakhtunkhwa though Sectary Establishment Civil
Secretariat Khyber Pakhtunkhwa Peshawar & Others

.....Respondents

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Dated: 18/10/2016

Appellant

Through

Amjad Ali (Mardan)
Advocate Supreme
Court of Pakistan

(11)

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 1101/2016

Diary No. 1100

Dated 18-10-2016

Asad -Ullah Khan Section Officer Home Department Civil Secretariat
Khyber Pakhtunkhwa Peshawar.Appellant

VERSUS

- ✓ 1. Govt. of Khyber Pakhtunkhwa through Sectary Establishment Civil Secretariat Khyber Pakhtunkhwa Peshawar.
2. Chief Sectary Khyber Pakhtunkhwa Civil Secretariat Peshawar.
.....Respondents

Subject: *Appeal U/S 4 of Service Tribunal Act 1974 against defendant order dated 17/6/2016 and non-inclusion of appellant in promotion order dated 17/6/2016 wherein junior to appellants were promoted to BPS-18 and appellant is deferred due to lack of Training which is against promotion Policy 2009 PMS Rules 2007 and order dated 15/6/2016 of C.M Khyber Pakhtunkhwa and departmental appeal/ representation dated 21/7/2016 remained unresponded even after lapse of 90X days which is illegal against law and facts*

Prayer

On acceptance of this appeal it is, therefore, humbly prayed that deferment order dated 17/06/2016 (wherein appellant has been deferred from promotion to BPS-18 on the ground of lack of training) may please be declared as illegal, against Promotion Policy 2009, PMS Rules 2007 and C.M order dated 15/06/2016 and consequently may please be set aside and name of appellant may please be included in promotion order dated 17/06/2016 of BPS-17 officers to BPS-18 officers, w.e.f 27/05/2016 when his juniors were promoted with all back monetary and service benefits. Any other relief deemed fit may also be graciously granted.

Respectfully Sheweth

Appellant humbly submits as under:-

1. That appellant was appointed as Naib Tehsildar through Khyber Pakhtunkhwa Public Service Commission vide order dated 13/7/1998. (Copy of order dated 13/7/1998 is Annexure "A").
2. That appellant was promoted to the post of Tehsildar BPS-16 on regular basis vide order dated 6/9/2006 (Copy of order dated 6/9/2006 is attached as Annexure "B").

RE-submitted to-day and filed.

Filed to-day
Registrar
3/10/16

Registrar
3/10/16

- 6
3. That the appellant was promoted to the post of PMS Officer BPS-17 on regular basis vide order dated 03/03/2009. (Copy of order dated 03/03/2009 is attached as Annexure "C")
 4. That the appellant has already passed the Department Examination vide Notification dated 13/7/2001 and under R.No.24 12 Oct 2001 under R.No.24 and 26/5/2007 under R-32. (Copy of Notification dated, 13/7/2001, 12 Oct 2001 and 26/5/2007 are attached as Annexure "D")
 5. That since 2009 till December, 2015 no mandatory Training has been offered to the appellant.
 6. That the appellant was offered Training vide letter dated. 29/12/2015 and the appellant is under going the same Training, however, the Training ibid was immediately stopped by the respondents. (Copy of letter dated. 29/12/2015 is attached as Annexure "E").
 7. That respondent No.2 called meeting of Provincial Selection Board of PBS and promoted Junior officers to the appellant on regular basis to BPS-18 w.e.f 27/05/2016, who are at serial No. 33,35,36,37,38,39,40 of the Seniority list of PMS officers BPS-17 2015 stood on 2015, wherein appellant is at Serial. (Copy of promotion order dated June 17, 2016 is annexure F and Copy of seniority list is attached as Annexure "G").
 8. That respondents deferred the promotion of the appellant along with other colleagues on the sole ground of lack of mandatory training and forwarded the minutes of PSB meeting to the competent authority (Chief Minister) for approval. At that time the deferred officers made a representation to the Competent Authority wherein the worthy Chief Minister forwarded that neither training is mandatory for the deferred officers nor it has been offered to them. (Copy of Competent Authority observations order dated 27/5/2016 is attached as Annexure "H").
 9. That respondent clarified vide para-8 of the summary dated 07/06/2016 that the observations ibid of the Competent Authority in the following words:-

" It is further stated that sufficient posts in BPS-18 are available at the moment as soon as the officers will complete their 14 weeks mandatory Training they will be considered for promotions. It is further clarified that on promotion they will retain their inter-se-seniority". (Copy of Para No.8 of respondent Clarification/ Summary dated 07/06/2016 is attached as Annexure "I").
 10. That the Competent Authority approved the summery/clarification on 15/06/2016 with the direction to the respondent to promote the deferred officers conditionally and they will complete their training as and when

offered by the respondents. (Copy of Competent Authority dated. 15/06/2016 is attached as Annexure "J").

- 11. That the respondents ignored the directions of the Competent Authority dated 15/06/2016 and called twice PSB meetings to the appellant to BS-18 on regular basis.
- 12. That appellant submitted Departmental Appeal to the Competent Authority on 21/07/2016 which is still pending. (Copy of Departmental Appeal dated 21/07/2016 is attached as Annexure "K").
- 13. That appellant has been offered 14 weeks mandatory training for promotion to BS-18 vide letters dated 3rd August, 2016 and 5th August, 2016. (Copies of letters dated. 3rd August, 2016 and 5th August, 2016 are attached as Annexure "L").
- 14. That appellant is now undergoing 14 weeks mandatory training w.e.f 10/08/2016 at Pakistan Provincial Service Academy Peshawar for promotion to BPS-18 which will be completed on 11/11/2016 and respondent has admitted this fact vide Competent Authority's letter dated 22nd Sep, 2016. (Copy of letter dated 22nd Sep, 2016 is attached as Annexure "M").
- 15. That deferment of appellant vide order and non-inclusim in promotion order dated 17/06/2016 deferment are illegal against law and facts on the following grounds:-

GROUNDS

- A. Because as per Para 1 of promotion Policy 2009 five years service in BS-17 is the required length of seven for promotion to BS-18 and appellant has completed service years of service in BS-17 Therefore, deferment of the appellant for promotion to BS-18 is against the law and rules. (Copy of Para 1 is promotion Policy 2009 is Attached as annexure "N").
- B. Because as per Schedule I of the PMS Rules 2007, criteria for promotion to BS-18 is five Years Service in BS-17 alongwith Departmental Exam or Training. Appellant has 7 years service in BS-17 and has already passed the department exam and has been undergoing 14 weeks mandatory Training for promotion to BS-18 w.e.f 10/8/2016 which will be completed on 11/11/2016 thus department of the appellant from promotion to BS-18 is against the law and Rules. (Copy of Schedule I is attached as Annexure "O").
- C. Because as per Para II of the promotion Policy 2009, no Training is mandatory for promotion to BPS 19, 20 and 21 only. Thus deferment of the appellant from promotion to BPS-18 is against the Law and

Rules, (Copy of Para II of Promotion Policy 2009 is attached as Annexure "P").

(4)

- D. Because as per Para III (b) of the promotion Policy 2009 there is neither any Training for promotion to BPS-18 nor any marks in the PSB have been allocated for promotion to BPS-18. Thus deferment of the appellant from promotion o BPS-18 is against the said Policy. (Copy of Para III (b) is attached as Annexure "Q").
- E. Because depriving of appellant from promotion to BPS-18 for no fault on his part is against the principle of natural justice, law and appellant can't be made victim of an arbitrary and capricious order.
- F. Because ignoring the directions of the Competent Authority by the respondent is an arbitrary act on the part of respondent and is deplorable as per PMS Rules 2007 and Khyber Pakhtunkhwa Promotion Policy 2009, appellant has 7 years active service in BPS-17 equipped with passing of department examination and is further undergoing 14 weeks Training at P.P.S.A Peshawar w.e.f 10/8/2017 for promotion o BPS-18 on their 1st offer as it was never offered in the past , 7 years service of appellant as BPS-17 officer.

It is, therefore, humbly prayed that deferment order dated 17/06/2016 (wherein appellant has been deferred from promotion to BPS-18 on the ground of lack of training) may please be declared as illegal, against Promotion Policy 2009, PMS Rules 2007 and C.M order dated 15/06/2016 and consequently may please be set aside and name of appellant may please be included in promotion order dated 17/06/2016 of BPS-17 officers to BPS-18 officers, w.e.f 27/05/2016 when his juniors were promoted with all back monetary and service benefits. Any other relief deemed fit may also be graciously granted.

Dated: ___/10/2016

Appellant

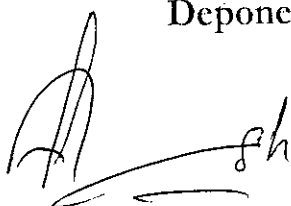
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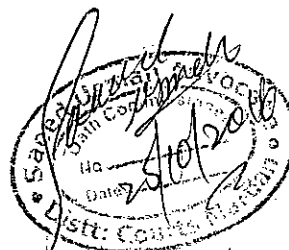
Amjad Ali (Mardan)
Advocate Supreme
Court of Pakistan
0321-9882434

AFFIDAVIT

I, do hereby solemnly declare and verify that the contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Deponent





No. 8019 /2/654 (AC), Dated: Saidu Sharif the 13/7/1998.

(10)

ORDER

In exercise of the powers delegated to the undersigned vide Rule 4 of the West Pakistan Tehsildari and Naib Tehsildari service Rules 1962 and consequent upon the recommendations of the NWFP, Public Service Commission in relaxation of the ban, the following candidates are hereby selected as Naib Tehsildars on regular cadre against the direct quota in EP9-14 (2065-161-4480):-

- 1) Mian Fazal Mabood,
S/O Mian Baqshah Yousef,
R/O Village & P.O. Gendigar Distt; Dir
C/O Nisar Yousaf Assistant Prof;
Govt; College, Takht Bai, Distt; Mardan,
- 2) Mr. Abdul Kabir Khan,
S/O Khalilur Rahman,
Village Chalyar Tehsil & Post Office
Khwazakhela District Swat.
- 3) Mr. Abdul Hamid,
S/O Abdul Majid Khan,
R/O Mohallah Radad Khel Village & P.O.
Julagram Malakand Agency.
- 4) Mr. Asad Ullah Khan,
S/O Saif Rahim Village, Kharkai, P.O.
& Tehsil Dargai Malakand Agency.
- 5) Mr. Javid Ali,
S/O Sardar Ali Sardar Aman,
R/O House No. 233 ST No. 64 Phase No. 1
Sector D-I Hayatabad Peshawar.
- 6) Mr. Tariq Ali Khan,
S/O Bakht Rawan C/O Hamdan General Store
Shah Zade Market Sakhakot Bazar
Malakand Agency.
- 7) Mr. Mohammed Nasir Khan,
S/O Qadar Khan, Village & P.O. Danwa
Tehsil Timergera District Dir.
- 8) Mr. Wahidullah,
S/O Mahibullah C/O Rahman Medical Store
Timergera District Dir.
- 9) Mr. Hidayatullah,
S/O Fazal Haleem Khushal Public School
Landikass Mingora Swat.
- 10) Syed Kazim Hussain Shah,
S/O Syed Tawfiq Jan C/O Professor Syed-
Tawfiq Jan Govt; Degree College Chitral.
- 11) Mr. Mohammed Irshad,
S/O Gul Tullah Khan C/O Wasim Medicose
Wari District Dir.

Handwritten initials/signature

(Handwritten circled numbers 11 and 6)

- 12) Mr. Habibullah Arif,
S/O Mohammad Arif,
Said Anwar House No. 12 New Ghami Road
Peshawar.
- 13) Mr. Naeem Akhtar,
S/O Mohammad Dawood,
Dawood Corporation Airport Road,
Mingora Swat.
- 14) Mr. Niaz Mohammad Khan,
S/O Habib Khan,
Habib Medicose Central Hospital
Saidu Sharif Swat.

Their inter-se-seniority has been fixed on merit as recommended by the Public Service Commission, NWFP, Peshawar as shown above.

Si/-
COMMISSIONER, MALAKAND DIVISION.

No. 8020-52 / 2/654 (AC)

Copy forwarded to :-

- 1) The Secretary, Board of Revenue, NWFP, Peshawar with reference to his memo No. 45243/Admn: I, dated 2-7-1998.
- 2-6) All Commissioners in N.W.F.P.
- 7) The Deputy Commissioner, Swat.
- 8) The Deputy Commissioner, Dir Lower.
- 9) The Deputy Commissioner, Dir Upper.
- 10) The Deputy Commissioner, Buner.
- 11) The Deputy Commissioner, Chitral.
- 12) The Deputy Commissioner, Shangla.
- 13) The Political Agent, Malakand.
- 14) The District Accounts Officer, Swat.
- 15) The Settlement Officer, Mardan.
- 16-30) The officials concerned for information and compliance.
- 31) File No. 2/34-A (AC).
- 32) Office Order File.

(Handwritten signature)
Assistant to Commissioner (Rev.),
for Commissioner, Malakand Division.

(7) Aux-B

(2)

GOVERNMENT OF NWFP
REVENUE & ESTATE DEPARTMENT

Peshawar dated the. 06 /09/2008

Amir

Alena

(Signature)

NOTIFICATION

NO 22315 Admn:I/DPC/26/2008 The Competent Authority in consultation with the Departmental Promotion Committee is pleased to order the promotion of the following Naib Tehsildars and Tehsildars working on Acting Charge Basis to the post of Tehsildar (BS -16) on Regular basis with immediate effect.

S.NO	NAME OF OFFICER	PRESENT POSTING
1.	Mr.Shabbir Muhammad	Political Tehsildar Lower Orakzai Agency
2.	Mr.Gulfam Abbas Shah	Board of Revenue NWFP
3.	Mr.Afsar Ali Shah	Tehsildar Pabbi
4.	Mr.Mansoor Hassan	Political Tehsildar Baizai Mohmand Agency
5.	Muhammad Jamal Azmat	Board of Revenue NWFP
6.	Muhammad Ikramullah	Tehsildar Paharpur (DIKhan)
7.	Muhammad Kashif Nadeem	Tehsildar CRBC WAPDA DIKhan
8.	Mr. Bakhtiar Khan	Political Tehsildar Jamrud
9.	Mr.Ghazi Nawaz	Tehsildar Irrigation DIKhan
10.	MR.Kiramatullah	Tehsildar DIKhan
11.	Mr.Abdul Kabir	Board of Revenue NWFP
12.	Mr.Abdul Hameed	Tehsildar Nowshera
13.	Mr.Asadullah	Tehsildar Behrain (Swat)
14.	Mr.Javed Ali	Tehsildar SME Bank Peshawar
15.	Mr.Tariq Ali	Tehsildar Samar Bagh (Dir Lower)
16.	Muhammad Nasir Khan	Tehsildar Lahor (Swabi)
17.	Mr.Hidayatullah	Tehsildar Daggar (Buner)
18.	S.Kazim Hussain Shah	Tehsildar Babuzai (Swat)
19.	Mr.Fazal Hussain	Board of Revenue NWFP
20.	Muhammad Irshad	Board of Revenue NWFP
21.	Mr.Habibullah Arif	Tehsildar /Recovery Officer SIDD Peshawar
22.	Mr.Naeem Akhtar	Deputy District Officer (R) Swat
23.	Mr.Niaz Muhammad	Tehsildar Alpuri (Shangla)
24.	Mr.Daftar Khan	Political Tehsildar Mahal Kuram Agency



Aux - c ~~AKR~~ (8) (3)

**GOVERNMENT OF NWFP
ESTABLISHMENT DEPARTMENT**

Dated Peshawar the 3rd March, 2009

NOTIFICATION:

No: SOE-II(ED)2(192)2009: The Competent Authority, in consultation with the Provincial Selection Board is pleased to order the promotion of the following Tehsilidars, to Provincial Management Service (BS-17) on regular basis with immediate effect:-

Sr. #	NAME OF OFFICER
1	Mr. Shabbir Muhammad
2	Mr. Afsar Ali Shah
3	Mr. Maqsood Hassan
4	Mr. Muhammad Jamal Azmat
5	Mr. Abdul Hameed Khan
6	Mr. Asadullah
7	Mr. Javed Ali
8	Mr. Tariq Ali

- 2- On their promotion the above officers will be on probation for a period of one year in terms of section-6(2) of NWFP Civil Servants Act 1973 read with Rule-15(1) of NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1983.
- 3- Posting / transfer orders of above named officers will be issued later on.

CHIEF SECRETARY, N.W.F.P.

ENDST:NO: SOE-II (ED)2(192) 2009

Dated Peshawar the 3rd, March, 2009

A copy is forwarded to :-

1. Senior Member Board of Revenue, NWFP.
2. Secretary to Governor, NWFP.
3. Principal Secretary to Chief Minister, NWFP.
4. Secretary (Admn & Coord) Civil Secretariat FATA.
5. District Coordination Officers, Swabi, Nowshera, Swat, & Dir Lower.
6. Political Agents, Mohmand Agency / S. Waziristan Agency / Kurram Agency.
7. Accountant General, NWFP, Peshawar.
8. District Accounts Officers, Swabi, Nowshera, Swat & Dir Lower.
9. Agency Accounts Officers, Mohmand Agency / S. Waziristan Agency / Kurram Agency.
10. S.O. (Secret)/(Admn)/E-IV/E.O/Programmer/Librarian, E&A Dept.
11. Officers concerned.
12. P.S. to Chief Secretary NWFP.
13. P.S. to Secretary Establishment NWFP.
14. PA to Addl: Secretary (E) / Dy: Secretary (E) Establishment Department.
15. Personal files of the officers concerned.
16. Office Order file.
17. Manager, Govt Printing Press, Peshawar.

SEC

My Civil Law Paper has been cleared in Higher Pass position through the attached notification No SUS(S+GAD) Exam/2/78/may, 2001 dated Peshwar the 12th October, 2001

NOTIFICATION

NO. 666 (H.A.D) EXAMINATION/2/78/MAY 2001. Under Rule 11(3) of the Rules prescribed for examination of Assistant Commissioners, Subordinate Judges and candidates for the post of Extra Assistant Commissioners of N.W.F. Province, as published with the Home Department Gazette Notification No. 6857/H.C. dated 8th May, 1952, the Governor of N.W.F. Province is pleased to declare the following candidates to have passed in various subjects of the Departmental Examination held in May, 2001 at Peshwar by standard noted against each :-

GOVERNMENT OF N.W.F. PROVINCE
ESTABLISHMENT & ADMIN. SECTION
(SECRET SECTION)

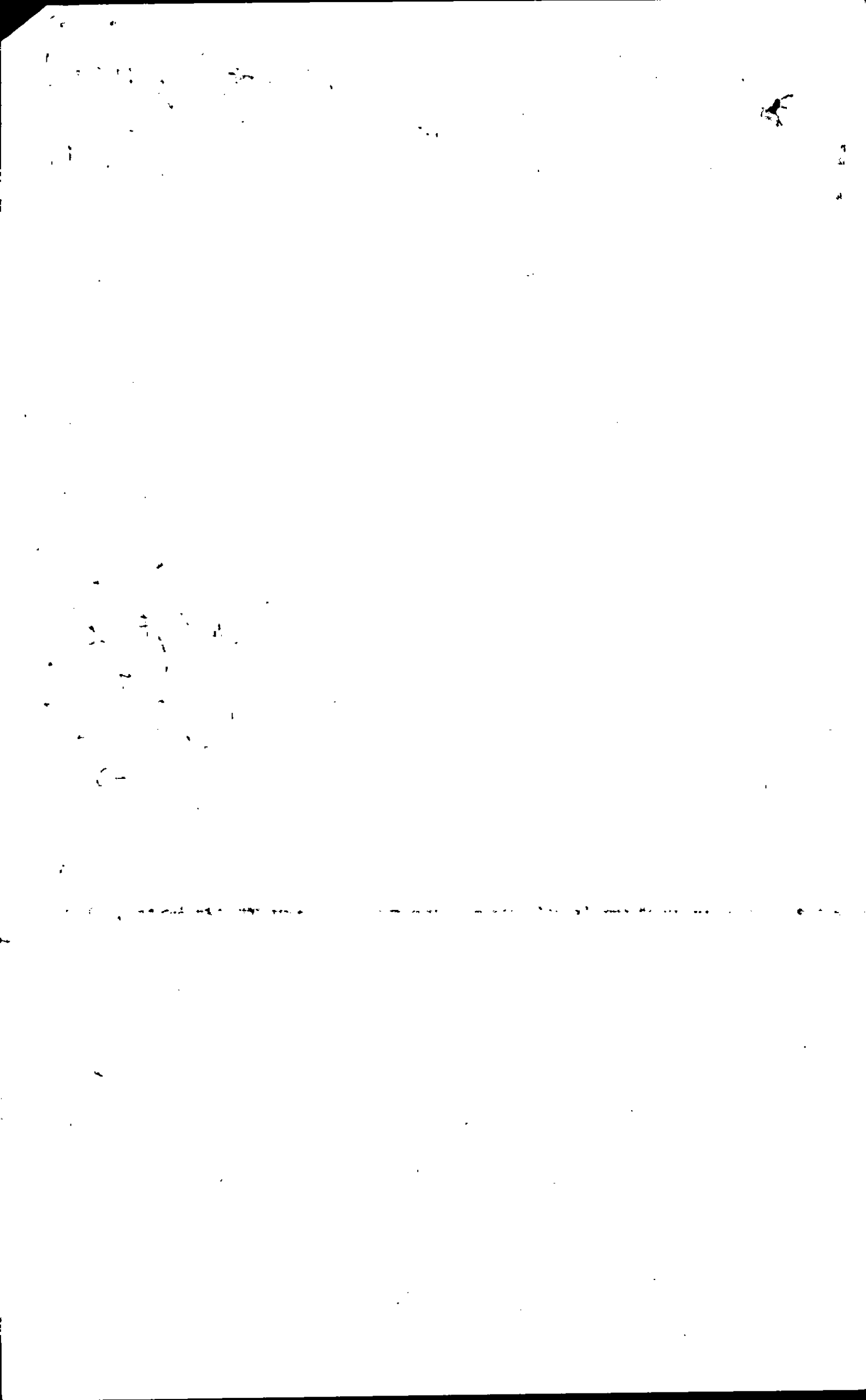
Dated Peshwar the 13/7/01

B.NO. Name of candidate
1
2. Mr. Najibullah
Peshawar
3. Mr. ...

(LIST ENCLOSED)

P.F.O.

20/11/01
20/11/01
20/11/01
20/11/01



(10)

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R. No.	Name of candidate	CRIMINAL LAW	CIVIL LAW	REVENUE LAW	TREASURY/ACCOUNTS	LOCAL COUNCIL	JAIL	PATWAR MANSUBARI
1	2	3	4	5	6	7	8	9
02	Mr. Najibullah Rohaildar, Ghazipur, Dir.	-	Lower passed.	-	-	-	-	-
03	Mr. Muhammad Rafiq Rohaildar, Pales, Kohistan.	-	-	-	Higher passed.	-	-	-
05	Mr. Muhammad Iqbal Swati Rohaildar, P.T.C.L, D.I. Khan.	-	-	-	Higher passed.	-	-	-
06	Mr. Muhammad Payan Police Officer Rohaildar, Chamarband, Kajar Agency.	Fail	Lower passed.	Higher passed.	Higher passed.	Higher passed.	Higher passed.	Pass
10	Mr. Hiftabuddin, Rohaildar, Ghazipur.	-	-	Higher passed.	Lower passed.	-	-	-
10	Mr. Nasir Ahmad, Rohaildar, G.R.O, D.I. Khan	Lower passed.	Fail	-	-	-	-	-
24	Mr. Shukool Qadir Khan, Asstt: Commissioner, Swat.	-	Fail	-	Higher passed.	-	-	-
22	Mr. Asadullah Pals, Asstt: Commissioner, Islamabad.	Higher passed.	Fail	-	-	-	-	-
23	Mr. Farid Ali Khan, Rohaildar Kabal, Swat.	Higher passed.	Lower passed.	-	Lower passed.	-	-	-
24	Mr. Asadullah Khan, Rohaildar Charbagh, Swat.	Higher passed.	Lower passed.	Higher passed.	Fail	Higher passed.	Higher passed.	Pass
28	Mr. Afzar Ali Khan, Civil Judge, Peshawar.	-	-	-	Higher passed.	-	-	-
30	Mr. Vigar Ahmad Khan, J/Judge, Peshawar.	-	-	Fail	-	-	-	-
34	Mr. Ismailah, J/S, Korak.	-	-	-	Fail	-	-	-
35	Mr. Nisar Hussain, Rohaildar, Dandaud Shah.	-	-	Fail	-	Higher passed.	Higher passed.	-

Endst: No. SOS (EAAD) EXAMINATION / 2/78/MAY, 2001.

Dated Peshawar the 13/7/2001.

Copy forwarded for information to the :-

1. All District Coordination Officers in N.W.F.P.
2. All Political Agents in NWFP.
3. Registrar, Peshawar High Court, Peshawar.
4. The Secretary, Board of Revenue NWFP Peshawar.
5. The Accountant General, NWFP Peshawar.
6. The Director of Information NWFP Peshawar for publicity in Press.
7. The Manager, Govt. Printing Press Peshawar for publicity of the Notification in the NWFP Government Gazette.
8. Section Officer (Estt: I), EAAD.
9. Section Officer (Estt: II), EA Department.
10. All concerned.

H. Muzammas Qureshi

(HIZAN UD DIN) 13/7/2001.
Section Officer (Secret)

GOVERNMENT OF N.W.F.P.
ESTABLISHMENT DEPARTMENT.
(secret section)

NO.SOS(S&GAD) EXAM/2/78/May,2001

Dated Peshawar the 12th October,2001

12

CORRIGENGUM.

In partial modification of this Department's Notification of even No. Dated 13.7.2001 the result appearing against the following Roll Nos. with Names in the Civil Law may be read as under:-

Roll No.	Name & Designation	Paper (Civil Law)
2	Mr. Najibullah Tehsildar. Shiringal, Dir.	Higher Passed
21	Mr. Shakeel Qadir Khan, Assistant Commissioner, Swat.	-do-
22	Mr. Asadullah Faiz, Asstt: Commissioner, Islamabad.	-do-
24	Asadullah Khan. N/Tehsildar, Charbagh	-do-
55	Mr. Khalid Akbar , Tehsildar/RO PTCL.	-do-
60	Mr. Hafizullah Khan, RNT S W Agency.	-do-
64	Mr. Umar Masood, A.C Nowshera.	-do-
70	Mr. Nadeemur Rehman, A.C U/T Abbottabad.	-do-
81	Muhammad Haroonur Rafique, A.C Mansehra.	-do-

Secretary
Establishment Deptt.

Endst.No.SOS(S&GAD)Exam/2/78 Dated.12.11.2001

Copy forwarded to:-

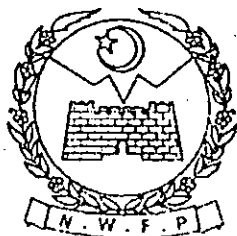
1. All DCOs in NWFP.
2. All Political Agents in NWFP.
3. The Secretary Board of Revenue, NWFP, Peshawar.
4. The Manager, Printing Press, Peshawar.
5. The Section Officer (E-I), Establishment Department.
6. The Section Officer (E-II), Establishment Department.
7. Officers concerned.

(Muhammad Jamil)
Section Officer (Secret)

1

GOVERNMENT OF N-W.F.P
ESTABLISHMENT DEPARTMENT
(Secret Section)

Dated Peshawar the 26 . 05 . 2007.

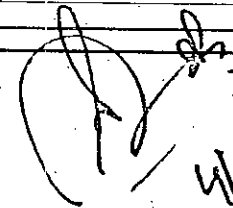


NOTIFICATION

No. SOS(ED) Exam: /2/78/May/2007: -

Under Rules-II(3) of the prescribed for the examination of DMG, PCS & Tehsildars of N-W.F.P. as published with the Home Department Gazette Notification No. 6857 /HG, dated 08.05.1952 8th May, 1952 the Governor of N-W.F.P. Province is pleased to declare the following candidates to have passed in various subjects of the Departmental Examination held in March-April. 2007 at Peshawar by standard noted against each: -

(List Enclosed)

Seen

4/6/07

P.T.O

RESULTS OF DEPARTMENTAL EXAMINATION HELD IN MARCH-APRIL, 2007.

3

ROLL.#	NAME & DESIGNATION.	CRIMINAL LAW	CIVIL LAW	REVENUE LAW	TREASURY	LOCAL GOVET:	JAIL	PATWAR
23.	Mr. Javed Ali, Tehsildar/Recovery PESCO (WAPDA), P-5, Hayatabad.	Higher Passed	Higher Passed	Higher Passed	Higher Passed	Higher Passed	Higher Passed	Passed
25.	Mr. Moazzam Iqbal Cipra, ACO, Malakand.	-	Higher Passed	-	-	-	-	-
29.	Mr. Daftar Khan P.T. North Waziristan.	Fail	Fail	-	-	-	-	-
30.	Mr. Ghazi Nawaz Sherani, Tehsildar, D.I.Khan.	-	Higher Passed	Higher Passed	Fail	Higher Passed	Higher Passed	Fail
31.	Mr. Gul Nawaz Khan, Tehsil: Recovery WAPDA, Mardan.	-	-	Fail	Fail	Fail	-	-
32.	Mr. Assad ulla Khan, Tehsildar, Timergara, Dir(L).	-	-	-	Higher Passed	-	-	-
33.	Mr. Said Qadir, N.T, Adenzai Chakdara.	Higher Passed	Higher Passed	Lower Passed	Higher Passed	Higher Passed	Higher Passed	Passed
34.	Mr. Muhammad Shabir, Tehsildar, Landikotal.	Higher Passed	Higher Passed	Higher Passed	Higher Passed	Higher Passed	-	-
35.	Mr. Khalid Mehmood, Tehsildar, Rev: Academy, Karak.	Higher Passed	Higher Passed	Higher Passed	Higher Passed	Higher Passed	Higher Passed	Passed
36.	Mr. Sardar Manzoor Ahmad, Tehsildar, Abbotabad.	Lower Passed	Higher Passed	Higher Passed	Higher Passed	Higher Passed	Higher Passed	Passed
37.	Mr. Nadir Chattah, DMG.	-	Higher Passed	-	-	-	-	-
38.	Mr. Javedullah, P.T, Bara.	-	Higher Passed	-	-	-	-	-
39.	Mr. Sajjad-ur-Rehman, S.O, Law Deptt.	-	-	-	Fail	-	-	-
40.	Tehsil Badshah, ACO, Karak.	-	-	-	-	-	Fail	Fail
41.	Mr. Ali Muhammad, Tehsildar, Takhat Nusrati.	-	-	-	-	-	-	Fail
42.	Mr. Muhammad Wisal, Tehsildar, Bajaur Agency.	-	-	-	-	-	-	Passed

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(Handwritten signature)

(Handwritten signature)



PAKISTAN PROVINCIAL SERVICES ACADEMY

PESHAWAR
Ph#091-9224482
Fax#091-9224481

(15) Aux-E (5)

Director General

No. PPSA/TRG/PMS/634
29th December, 2015

My dear

Amirul
Musahar

First of all I would like to congratulate you on your nomination for the Pre-Service course of Provincial Management Services (PMS) at Pakistan Provincial Services Academy (PPSA) Peshawar.

2. The course has been designed to expose the participants to the concepts related to public service. Obviously, this demands a high degree of intellectual involvement by the faculty as well as the participants. The forthcoming course will require your whole-hearted participation and total commitment in order to make it professionally rewarding and productive for you.

3. The course will start on 4th of January, 2016. You are required to report at the PPSA latest by Sunday, January 03, 2016 at 0900 hrs.

4. Guideline and Joining Instructions are enclosed. Please go through these Guideline carefully. I am confident that you will contribute to the process of learning through your active participation. Looking forward to a meaningful and mutually rewarding interaction during your stay at PPSA, Peshawar.

Yours sincerely,

(Signature)
(Naj-Mus-Sahar)
Assistant Director
for
Director General

Mr. Asadullah Khan
Section Officer,
Establishment Labor department,
Civil Secretariat,
Peshawar.

Enclosure: Guideline and Joining Instructions



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar, the June 17, 2016

NOTIFICATION

NO.SO(E-I)E&AD/5-1/2016. Government of Khyber Pakhtunkhwa on the recommendations of the Provincial Selection Board is pleased to promote the following officers of Provincial Management Service (PMS) from BS-17 to BS-18, on regular basis with effect from 27.5.2016:-

S.#	NAMES OF OFFICERS
1.	Mr. Mansoor Qaiser
2.	Mr. Muhammad Asghar Khan
3.	Mr. Abdul Hadi
4.	Mr. Abdul Malik
5.	Syed Noor Ahmad Shah
6.	Mr. Misal Khan
7.	Mr. Manzoor Elahi
8.	Mr. Sardar Ali
9.	Mr. Mirzali
10.	Mr. Muhammad Saeed Ullah
11.	Ms. Mussarrat Ismail Butt
12.	Mr. Abdul Kabir Khan
13.	Mr. Muhammad Rehman
14.	Mr. Fazad Khan,
15.	Syed Abdul Ali Shah,
16.	Mr. Muhammad Javed Siddiqi,
17.	Mr. Javed Khan
18.	Mr. Nasir Aman
19.	Mr. Sakhi-ur-Rehman

2. The officers on promotion will remain on probation for a period of one year in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 or till their retirement, whichever is earlier, as the case may be.

3. Consequent upon the above, the officers will remain posted as under:-

SR.#	NAMES OF OFFICERS	FROM	TO
1.	Mr. Mansoor Qaiser (PMS BS-18)	Secretary to Commissioner, D.I.Khan	Secretary to Commissioner, D.I.Khan
2.	Mr. Muhammad Asghar Khan (PMS BS-18)	ACR Bannu	Deputy Secretary, Zakat, Ushr, Social Welfare and Women Empowerment Department, against the vacant post.
3.	Mr. Abdul Hadi (PMS BS-18)	Section Officer, Zakat, Ushr Department.	Deputy Secretary, Chief Minister's Secretariat, against the vacant post.



(17)

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

SR.#	NAMES OF OFFICERS	FROM	TO
4.	Mr. Abdul Malik (PMS BS-18)	PRO-cum- Protocol Officer, FATA Development Authority	Deputy Secretary, Population Welfare Department, against the vacant post.
5.	Syed Noor Ahmad Shah (PMS BS-18)	Section Officer, Finance Department	Deputy Secretary, Finance Department, against the vacant post.
6.	Mr. Misal Khan (PMS BS-18)	Section Officer, Irrigation Department.	Deputy Secretary, C&W Department, vice Sr. No. 7.
7.	Mr. Javed Akhter (PMS BS-18)	Deputy Secretary, C&W Department	Deputy Secretary in E&AD against the vacant post
8.	Mr. Manzoor Elahi (PMS BS-18)	PS to Ikram Khan Gandapur	Deputy Secretary, E&SE Department, against the vacant post.
9.	Mr. Sardar Ali (PMS BS-18)	Section officer, IPC Department	Deputy Secretary, Chief Minister's Secretariat, against the vacant post.
10.	Mr. Mirzali (PMS BS-18)	Section Officer, Environment Department	Deputy Secretary, LG&RD Department, against the vacant post.
11.	Mr. Muhammad Saeed Ullah (PMS BS-18)	Section Officer (Secret) E&A Department	Deputy Secretary (Reg. III), E&A Department, against the vacant post.
12.	Ms. Mussarrat Ismail Butt (PMS BS-18)	Section Officer, Cabinet Division, Islamabad (on deputation)	Repatriate to Establishment Department and further posted as Deputy Secretary, Finance Department, against the vacant post.
13.	Mr. Abdul Kabir Khan (PMS BS-18)	Adl AC Alpuri, Shangla.	Deputy Secretary (Policies) E&A Department, against the vacant post.
14.	Mr. Muhammad Rehman (PMS BS-18)	Monitoring officer, E&SE Department	Deputy Secretary, E&SE Department, against the vacant post.
15.	Mr. Fazad Khan, (PMS BS-18)	Section Officer, Agriculture Department.	Deputy Secretary, Governor's Secretariat, against the vacant post.
16.	Syed Abdul Ali Shah, (PMS BS-18)	Section Officer, IPC Department.	Deputy Secretary, Governor's Secretariat, against the vacant post.
17.	Mr. Muhammad Javed Siddiqi (PMS BS-18)	DMO, IMU, E&SE Deptt	Deputy Secretary, Finance Department, against the vacant post.
18.	Mr. Javed Khan (PMS BS-18)	Section officer, Transport Deptt.	Deputy Secretary (Reg. IV) E&A Department, against the vacant post.
19.	Mr. Nasir Aman (PMS BS-18)	Section Officer, Finance Deptt	Deputy Secretary (Reg.I) E&A Department, against the vacant post.

A



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

18

PAGE-3

SR.#	NAMES OF OFFICERS	FROM	TO
20.	Mr. Sakhi-ur-Rehman (PMS BS-18)	Section Officer, Mineral Dev. Deptt.	Deputy Secretary, Higher Education, against the vacant post.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

ENDST. OF EVEN NO. & DATE

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. Additional Chief Secretary (FATA), FATA Secretariat.
4. All Administrative Secretaries in Khyber Pakhtunkhwa.
5. Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. Accountant General, Khyber Pakhtunkhwa.
9. Project Director, IMU Project, E&SE Department.
10. PS to Chief Secretary, Khyber Pakhtunkhwa.
11. PS to Secretary Establishment, E&A Department.
12. PS to Secretary Establishment/PS to SS(E)/SS (Reg)/PA.AS(HRD)/AS(E)/ DS(E)/
SO(E.II)/SO(E.V)
13. PS to Secretary (Admn.)/D.S(A)/SO(Secret)/Estate Officer/ACSO Cypher/Dy Director
(IT) and Director Protocol Administration Department.
14. Officers concerned.
15. Controller, Govt. Printing Press, Peshawar.

(KASHIF IQBAL JILANI)
SECTION OFFICER (ESTT. I)
PHONE & FAX # 091-9210529

ZIA-UL-HAQ



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

7
Aux-6

NO.SOE-II(ED)2(8)2015

Dated Peshawar the January 05, 2016

To

1. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
2. Additional Chief Secretary, P&D, Khyber Pakhtunkhwa.
3. Additional Chief Secretary, FATA.
4. Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. All Political Agents in FATA.
9. All Deputy Commissioners in Khyber Pakhtunkhwa.

(19)

Received
[Signature]

[Signature]
FATA
Crew

Subject:- TENTATIVE SENIORITY LIST OF PCS (EG) & PMS OFFICERS
BS-17 AS STOOD ON 31/12/2015

Dear Sir,

I am directed to refer to the captioned subject and to enclose copies of tentative seniority lists of PCS (EG) & PMS BS-17 officers as it stood on 31/12/2015 alongwith certificate proforma with the request that the same may be circulated amongst the PCS (EG) & PMS BS-17 officers working in your respective Department/ Division/District/Agency.

2. I am further directed to request you to direct all concerned that the certificate may be returned to this Department duly signed, indicating error/omission, if any, for the purpose of rectification alongwith attested supporting documents up to 28.02.2016. In case of receipt of no response by the due date, it would be considered that particulars have been accepted as correct.

Diary No: 18
Date: 13-01-16

[Signature]
12/01/15

[Signature]
13/01/2016

[Signature]
15/11/mb

[Signature]
3-1-2016

Yours faithfully,

ENDST: NO & DATE EVEN

SECTION OFFICER(E-II)

Copy is forwarded to:-

1. PS to Chief Secretary, Khyber Pakhtunkhwa.
2. PS to Secretary Establishment.
3. PS to Special Secretary (Estt), Establishment Department.
4. PAs to AS(E)/AS(HRD) / DS(E), Establishment Department.

[Signature]
5-1-2016

SECTION OFFICER(E-II)

Secy Estt P&D Deptt

Copy No. 94

Date: 12-01-16

Khyber Pakhtunkhwa
Diary No: 23
Dated: 13-1-2016

TENTATIVE SENIORITY LIST OF PMS BS-17 OFFICERS AS STOOD ON 31.12.2015

S. No.	NAME OF OFFICER WITH ACADEMIC QUALIFICATION	DATE OF BIRTH AND DOMICILE	DATE OF 1ST ENTRY INTO GOVT. SERVICE	DATE OF APPOINTMENT/PROMOTION IN BS-16	REGULAR APPOINTMENT/PROMOTION TO PRESENT POSTS:			PRESENT APPOINTMENT	REMARKS
					DATE	BPS	METHOD OF RECRUITMENT		
1.	Mr. Jehanzeb Khan, BSc, Engineering	12.4.1967, Nowshera	1.1.1992	20.3.2008	27.5.2008	17	By promotion	Land Acquisition Collector, SNGPL, Peshawar on deputation basis (20.03.2015)	
2.	Mr. Mansoor Qaiser, MA	30.3.1966, DIKhan	1.1.1992	20.3.2008	27.5.2008	17	By promotion	Secretary to Commissioner, D.I.Khan 18.07.2013	
3.	Mr. Maqsood Hassan, MSc (Maths)	10.3.1967, Kohat	1.1.1992	6.9.2008	27.5.2008	17	By promotion	Section Officer Officer (L/R) (under suspension) 28.08.2014	Regained seniority w.c.f. 27.05.2008
4.	Mr. Sajid Ahmad, MA	30.4.1965, Kohat	1.1.1992	20.3.2008	27.5.2008	17	By promotion	Section Officer, Health Deptt: (13.12.2013)	
5.	Mr. Abdul Ghafoor Shah, M.Sc.	6.8.1967, Lakki Marwat	1.1.1992	20.3.2008	27.5.2008	17	By promotion	Assistant Commissioner, Hangu 30.10.2013	
6.	Mr. Muhammad Asghar Khan, MA (Eng)	15.3.1966, Lakki Marwat	1.1.1992	20.3.2008	27.5.2008	17	By promotion	Assistant to Commissioner (Rev), Bannu Div. 07.11.2013	
7.	Mr. Fazl-e-Qadir, MSC	1.1.1969, Karak	1.7.1995	20.3.2008	27.5.2008	17	By promotion	Asstt to Commissioner (Pol), Kohat 17.11.2015	
8.	Mr. Abdul Hadi, B.A	2.2.1966/ Dir Upper	1.7.1990	20.03.2008	27.05.2008	17	By promotion	Section Officer, Zakat, Social Welfare, Special Education & Women Empower (23.10.2014)	
9.	Syed Muhammad Suhail, BA	29.10.1967, Peshawar	19.11.1990	20.3.2008	27.5.2008	17	By promotion	S.O. Health Department (13.08.2015)	
10.	Mr. Khalid Mehmood, MA	15.3.1967, DIKhan	1.7.1995	20.3.2008	27.5.2008	17	By promotion	District Officer (F&P), Karak (20.10.2015)	
11.	Mr. Hafizullah, M.Sc.	31.12.1970, DIKhan	1.7.1995	20.3.2008	27.5.2008	17	By promotion	LAC, NHA D.I.Khan 27.12.2011	
12.	Mr. Abdul Malik, BA/LLB	3.1.1959, Peshawar	4.7.1977	29.5.2006	7.11.2008	17	By promotion	Pro-Cum-Protocol Officer, FATA Development Authority on deputation basis, 12.09.2015	


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S.No	NAME OF OFFICER WITH ACADEMIC QUALIFICATION	DATE OF BIRTH AND DOMICILE	DATE OF 1ST ENTRY INTO GOVT SERVICE	DATE OF APPOINTMENT / PROMOTION IN BPS-16	REGULAR APPOINTMENT / PROMOTION TO PRESENT POSTS			PRESENT APPOINTMENT	REMARKS
					DATE	BPS	METHOD OF RECRUITMENT		
13.	Mr. Muhammad Saeed-I, Matric	12.1.1956 Peshawar	12.9.1975	5.4.2007	7.11.2008	17	By promotion	Section Officer, W&S Dept 19.11.2007	
14.	Mr. Qayyum Nawaz, MA	7.4.1958, Tank	1.1.1992	20.3.2008	7.11.2008	17	By Promotion	(he is under suspension) S.O(L/R)	
15.	Mr. Mumtaz Ahmad, BA	10.1.1956 Nowshera	20.04.1976	20.03.2008	21.12.2011	17	By Promotion	Deputy Secretary, Labour Deptt in his own and and scale, against the vacant post (08.10.2015)	Regained seniority w.e.f.07.11.2008
16.	Mr. Rehan Gul Khattak, MA	10.1.1971, Karak	1.7.1995	20.3.2008	7.11.2008	17	By promotion	Section Officer (L/R) [01.01.2014 to 31.01.2016]	
17.	Mr. Javedullah Mehsood, MA	15.10.1967, S.W.A	1.7.1995	20.3.2008	7.11.2008	17	By promotion	APA, FR Bannu. 02.05.2013.	
18.	Mr. Niamatullah, Matric,	29.4.1956 Peshawar	29.1.1976	5.4.2007	3.3.2009	17	By promotion	Section Officer, Irrigation Deptt:	
19.	Syed Noor Ahmad Shah, M.A.	25.10.1958 Peshawar	9.7.1977	5.4.2007	3.3.2009	17	By promotion	Section Officer, Finance Dept 3.5.2007	
20.	Mr. Misal Khan, M.A.	8.1.1960 Peshawar	30.10.1979	5.4.2007	3.3.2009	17	By promotion	SO Irrigation Department (20.10.2014)	
21.	Mr. Habibullah-I, Matric,	9.9.1966 Peshawar	1.1.1985	5.4.2007	3.3.2009	17	By promotion	PS to CS, 30.3.2009	
22.	Mr. Manzoor Elahi, B.A.	19.6.1960 Mardan.	29.9.1979	5.4.2007	3.3.2009	17	By promotion	Private Secretary in o/o of Ikram Khan Gandapore 03.04.2014	
23.	Mr. Sardar Ali, B.A.	5.1.1959 Peshawar	1.6.1979	5.4.2007	3.3.2009	17	By promotion	Section Officer, IPC Department (09.06.2015)	
24.	Mr. Mirzali, M.A.	11.2.1966 Bannu	5.8.1989	5.4.2007	3.3.2009	17	By promotion	SO, Environment Dept 20.06.2009	
25.	Mr. Muhammad Saeed Ullah B.A.	1.3.1966 Chitral	7.11.1990	5.4.2007	3.3.2009	17	By promotion	Report to E&A Deptt 27.11.2015	
26.	Mr. Shams-ur-Rehman, Matric	8.6.1956, Chitral	08.05.1976	19.12.2007	3.3.2009	17	By promotion	SO (VIP-Flight-II) Administration Department, 24.1.2011	
27.	Ms. Mussarrat Ismail Butt, BA	1.1.1962, Peshawar	13.12.1983	19.12.2007	3.3.2009	17	By promotion	On deputation to Cabinet Division, Islamabad, 15.11.2011 (07.10.2013)	

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S.No	NAME OF OFFICER WITH ACADEMIC QUALIFICATION	DATE OF BIRTH AND DOMICILE	DATE OF ENTRY INTO GOVT SERVICE	DATE OF APPOINTMENT/PROMOTION IN BPS 16	REGULAR APPOINTMENT/PROMOTION TO PRESENT POSTS			PRESENT APPOINTMENT	REMARKS
					DATE	BPS	METHOD OF RECRUITMENT		
28.	Mr. Abdul Kabir Khan, B.Sc.(Forestry)	25.4.1965 Swat	29.04.1998	06.09.2008	21.12.2011	17	By Promotion	Addl: Assistant Commissioner (Rev), Alpuri Shangla. 31.10.2013	He regained seniority w.e.f. 03.03.2009 in light of the judgment of Services Tribunal dated 25.05.2012 in Service Appeal No. 1569 of 2010
29.	Mr. Abdul Hamced Khan, MSC / LLB	9.2.1972, Malakand	29.4.1998	6.9.2008	3.3.2009	17	By promotion	Asstt Commissioner, Nowshera, 14.10.2013	
30.	Mr. Asadullah Khan, MA, LLB, CCIL, ACCUF	2.3.1969, Malakand	14.7.1998	6.9.2008	3.3.2009	17	By promotion	Section Officer Labour Department (09.10.2014)	
31.	Mr. Javed Ali, MA	15.8.1969, Chitral	15.07.1998	6.9.2008	3.3.2009	17	By promotion	LAC Fatehpur-Kalam Project (N-95), NHA (11.12.2014) on deputation basis.	
32.	Mr. Tariq Ali Khan MA, LLB, ALC	14.12.1970, Malakand	14.7.1998	6.9.2008	3.3.2009	17	By promotion	Secretary RTA Mardan (29.09.2014)	
33.	Mr. Muhammad Rehman, MA	5.2.1965, Momand Agency	13.1.1987	19.12.2007	25.01.2010	17	By promotion	MO, E&S Edu Deptt 12.07.2013,	
34.	Mr. Amanullah, MA	5.12.1958, Lakki Marwat	9.7.1977	19.12.2007	25.01.2010	17	By promotion	SO, ST&IT Dept, 10.7.2008	
35.	Mr. Fazad Khan, B.Com	4.6.1958, Peshawar	4.7.1977	19.12.2007	25.01.2010	17	By promotion	SO, Chief Minister's Sectt (14.10.2015)	
36.	Syed Abdul Ali Shah, BA	13.10.1957, Mchinand Agency	26.3.1985	1.3.2008	25.01.2010	17	By promotion	SO, IPC Department 10.07.2008	
37.	Mr. Muhammad Javed Siddiqi. BA/LLB	3.1.1958, Peshawar	14.6.1976	16.4.2008	25.01.2010	17	By promotion	DMO (Nowshera), IMU Project, E&SE Deptt on deputation basis (20.10.2015)	
38.	Mr. Javed Khan, MA	2.9.1960, Swat	31.3.1985	1.3.2008	25.01.2010	17	By promotion	SO, Transport Dept, 02.12.2008.	

33

S.No	NAME OF OFFICER WITH ACADEMIC QUALIFICATION	DATE OF BIRTH AND DOMICILE	DATE OF ENTRY INTO GOVT SERVICE	DATE OF APPOINTMENT/PROMOTION IN BS-16	REGULAR APPOINTMENT/PROMOTION TO PRESENT POSITS			PRESENT APPOINTMENT	REMARKS
					DATE	BPS	METHOD OF RECRUITMENT		
39.	Mr. Nasir Aman, MA	28.9.1960, Chitral	17.4.1985	1.3.2008	25.01.2010	17	By promotion	SO, Finance Deptt (11.11.2015)	
40.	Mr. Sakhi-ur-Rehman, BA	10.3.1957, Dir	9.9.1978	1.3.2008	25.01.2010	17	By promotion	SO, Mineral Dev. Deptt: 21.03.2014	
41.	Mr. Muhammad Yaqoob Barki, BA	2.2.1967 S.W.Agency	01.07.1995	20.03.2008	25.03.2010	17	By Promotion	Addl: AC-I, Lakki Marwat, 04.04.2014	He regained seniority w.e.f. 25.03.2010 in light of the judgment of Services Tribunal dated 28.12.2012 in Service Appeal No. 1586 of 2010
42.	Mr. Muhammad Kashif Nadeem, BA LLB	11.9.1970 D.I.Khan	01.07.1995	06.09.2008	25.03.2010	17	By Promotion	Finance officer, Tank, 01.01.2013	He regained seniority w.e.f. 25.03.2010 in light of the judgment of Peshawar High Court, Peshawar In Writ Petition No. 2792-P/2013 announced on 17.1.2014
43.	Mr. Ghazi Nawaz, BA	3.3.1967, FR D.I.Khan	22.03.1985	06.09.2008	25.03.2010	17	By Promotion	Addl. Assistant Commissioner-II, D.I. Khan 29.10.2013	He regained seniority w.e.f. 25.03.2010 in light of the judgment of Services Tribunal dated 28.12.2012 in Service Appeal

Annex - H (8)

24

Amir
Amir
Amir

~~PRINCIPAL SECRETARY
CHIEF MINISTER~~

Chief Secretary
Govt. of Khyber Pakhtunkhwa

The Chief Minister has desired that some officers who have submitted their appeal at **(Annex-II)** may have been promoted instead of deferment as their request is genuine. The officers have not been offered any training by Establishment Department nor mandatory as per their Service rules. The Chief Minister has desired to revisit the summary in light of the appeal.

~~Chief Secretary.~~

[Signature]
27/5/2016
Principal Secretary

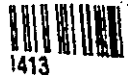
[Signature]

Ann - I (9)

(25)

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DEPARTMENT



**SUMMARY FOR
CHIEF MINISTER, KHYBER PAKHTUNKHWA**

Reference Para-2

Following officers have directly submitted joint applications to the Chief Minister, Khyber Pakhtunkhwa wherein they have informed that PSB has deferred their promotion on the basis of training which was;

- neither mandatory under PMS Rules-2011,
- nor offered to them

SR. NO.	NAMES OF OFFICERS
	Mr. Abdul Ghafoor
	Mr. Fazal Qadir
	Mr. Muhammad Durrani
	Mr. Pireen Gul Yousaf
	Mr. Javed Khan
	Mr. Faraz Hussain Khan
	Mr. Javed Ali
	Mr. Muhammad Nisar Khan
	Mr. [unclear]

(26)


6. Now Establishment Department has moved a case for necessary amendment in the PMS Rules-2007 and proposed 14-weeks mandatory training, instead of 18- months for promotees PMS officers. Keeping in view the above, the cases of officers mentioned at Sr. No. I to vii (Para- 3) were considered by PSB on 10.5.2016 and recommended their deferment

7. As regards to their second contention that training is not mandatory, it is submitted that as per PMS Rules 2007, 18-months training notified vide this Department's Notification No. SOE.II/ED/2-14/2015 dated 27/5/2015 is not only mandatory but also a pre-requisite for promotion to BS-18 (Annex-VI).

8. It is further stated that sufficient posts in BS-18 are available at the moment, as soon as the officers will complete their 14-weeks mandatory training, they will be considered for promotion. It is further clarified that on promotion they will retain their inter-se-seniority

9. It is also submitted that upon recommendation of above 20- officers of PMS BS-17 to BS-18, Establishment Department has taken result of these posts in promotion of Tehsildars, Superintendents and Personal Assistants to the posts of PMS BS-17, which was approved by the competent authority and Establishment Department issued their notifications w.e.f 27.5.2016 (Annex-VII & VIII).

10. Establishment Department proposes that recommendations of PSB contained in Para-2 of the summary may be approved w.e.f. 27.5.2016 enabling this Department to notify their promotion.


(HUMAIRA AHMED)
7/6/16
SECRETARY ESTABLISHMENT

C/S Khyber Pakhtunkhwa
2/18
7-6-16

1034
7-6-16

Ann - J All

Chief Secy

7/6/2016

Govt. of Khyber Pakhtunkhwa

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CM

Para 10 is approved with effect immediate. However, the defunct Reserve officers be considered for Conditional promotion through PsB and will avail training as B when offered by ESTB Deptt.

15.6.2016

Amir
Amir
Amir



Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

Dated Peshawar the 21st June, 2016.

Ann - K

(11)

(28)

To,
The Hon'ble Chief Minister,
Khyber Pakhtunkhwa,
Peshawar.

Received
S
21/6/16
[Signature]
[Signature]

Subject: APPEAL / REPRESENTATION.

Respected Sir,

With due respect it is stated that I have been serving as PMS Officer in BPS-17 on regular basis with effect from 03/03/2009 (copy is Annex-A)

2. That I am at serial No. 30 of the PMS tentative seniority list 2015 (copy is Annex-B)

3. That according to Khyber Pakhtunkhwa Promotion Policy 2009, training is not mandatory for promotion to BS-18. Rather it is mandatory for promotion to BS-19, 20, & 21. (Copy is Annex-C).

4. That I have challenged this training in the Peshawar High Court in W.P. No. 04/2016 and the Hon'ble Peshawar High Court has issued a status-quo order in this regard. (Copy of W.P.No. 04/16 and status-quo order is Annex-D).

5. That on account of the impugned training the Provincial Government has ignored my promotion to BS-18 and has promoted vide Notification date 17/06/2016 my juniors to BS-18 on regular basis who are at serial No.33,35,36,37,38,39,40 of the PMS tentative seniority list 2015. (Copy of Notification date 17/06/2016 Annex-E).

6. That this act, of the Provincial Government is against Justice and its own promotion policy 2009.

It is, therefore, very humbly requested that my appeal/representation may kindly be accepted, and I may kindly be promoted to BS-18 on regular basis w.e.f. 27/05/2016.

Please Put up an Appeal as soon as possible to this Director

Thanks.

[Signature]

Yours Obediently,

(Asadullah Khan)

PMS (BS-17)

Section Officer (Prisons)

Home & TAs Department.

21/6/16



Director General

PAKISTAN PROVINCIAL SERVICES ACADEMY

PESHAWAR

Ph#091-9224444

Fax#091-9224439

(12)

(29)

Ann-L

Asadullah Khan
Asadullah Khan
(Signature)

No.PPSA/TRG/C-76/201

3rd August, 2016

My dear *Asadullah Khan Sahib,*

(Signature)

First of all, I would like to congratulate you on your nomination for the mandatory training for Provincial Management Service (PMS) at Pakistan Provincial Services Academy (PPSA) Peshawar.

2. The Course has been designed to expose the participants to the concepts related to revenue and Public Management. Obviously, this demands a high degree of intellectual involvement by the faculty as well as the participants. The forthcoming course will require your whole-hearted participation and total commitment in order to make it professionally rewarding and productive for you.

3. The course will start on Wednesday 10th August, 2016. You are required to report to PPSA on Tuesday 9th August 2016 at 0900 hrs.

4. Guidelines and Joining Instructions are enclosed. Please go through these guidelines carefully. I am confident that you will contribute to the process of learning through your active participation. Looking forward to a meaningful and mutually rewarding interaction during your stay at PPSA, Peshawar.

Best regards

Yours sincerely

(Signature)
(Nighat Mehroze)

Mr. Asadullah Khan,
Section Officer (Prison),
Home Department,
Peshawar.
Cell: 0345-8845303
Email: asadullahkhan@gmail.com

Encl:

- Guideline and Joining Instructions.

30



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

NO.SOE-II(ED)2(14)2015
Dated Peshawar the August 05, 2016

To

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Information Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Auqaf Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Mineral Development Department.
4. The Secretary to Govt. of Khyber Pakhtunkhwa, Environment Department.
5. The Secretary to Govt. of Khyber Pakhtunkhwa, Home and Tribal Affairs Department
6. General Manager SNGPL
7. General Manager EALS, NHA
8. The Commissioner Kohat.
9. The Commissioner Mardan.
10. Deputy Commissioner Karak.
11. Deputy Commissioner Nowshera.
12. Deputy Commissioner Tank.
13. Deputy Commissioner D.I Khan.
14. Deputy Commissioner Lakki Marwat.

SUBJECT: - MANDATORY TRAINING FOR PROMOTEE (PMS BS-17) OFFICERS.

Dear SIR,

I am directed to refer to the subject cited above and to state that the following officers have been nominated for 14- weeks mandatory training for their promotion to BS-18 and the same shall commence from 10.8.2016 in the Pakistan Provincial Services Academy Peshawar:-

S.No	Name	Present Posting
1.	Mr. Jehanzeb khan	Land Acquisition Collector SNGPL, Peshawar
2.	Mr. Maqsood Hassan	Section officer (L/R)
3.	Mr. Abdi Ghafoor Shah	OSD E&AD
4.	MR. Fazal e Qadir	Asstt. to Commissioner. Kohat.
5.	Mr. Syed Muhammad Suhail	Section Officer, Information Department
6.	Mr. Kahild Mehmood	DO (F&P) Karak
7.	Mr. Hafizullah	LAC, NHA D.I Khan
8.	Mr. Rehan Gul	Section Officer Mineral Dev. Department
9.	Mr. Javed ullah	Section Officer Information Department
10.	Mr. Abdul Hameed khan	Assistant Commissioner Nowshera.
11.	Mr. Asadullah khan	Section Officer, Home and Tribal Affairs.
12.	Mr. Javed Ali	LAC Fatehpur-Kalam Project (N-95), NHA
13.	Mr. Tariq Ali khan	Secretary RTA Mardan
14.	Mr. Muhammad Yaqoob Barki	Addl: Assistant Commissioner-I, Lakki Marwat
15.	Mr. Muhammad Kashif Nadeem	Finance Officer Tank
16.	Mr. Ghazi Nawaz	Addl: Assistant Commissioner-II, D.I Khan
17.	Mr. Hidayat ullah khan	Administrator Auqaf, Khyber Pkhtunkhwa
18.	Mr. Syed kazim hussain shah	Section Officer, Enviroment Department.
19.	Mr. Fazal Hussain	OSD E&AD

I am further directed to state that the above mentioned officers shall remain posted at their current designated posts. However, they be allowed to proceed on the mandatory training to be held in PPSA, Peshawar. On completion of their training, these officers shall report back to their respective departments/ organizations where they are currently posted.

Yours faithfully

(31)



(HAKMAT ULLAH)
SECTION OFFICER (E-II)
Ph. 091-9210551

ENDST: NO. & DATE EVEN.

Copy of the above is forwarded to the following for information

1. Director General Pakistan Services Academy, Peshawar.
2. PS to Chief Secretary, Khyber Pakhtunkhwa
3. PS to Secretary Establishment.

/

SECTION OFFICER (E-II)



And - M (B) ~~125~~
CHIEF MINISTER'S SECRETARIAT
KHYBER PAKHTUNKHWA (32)

No. SO (Admn.)CMS/KPK/2016/12874
Dated Peshawar the, 22nd September, 2016

To

The Secretary to Government of Khyber Pakhtunkhwa,
Establishment Department.

Subject:- APPEAL/REPRESENTATION

Dear Madam,


I am directed to refer to your letter No. SOE-II(ED)2(574/2009 dated 18-08-2016, on the subject cited above, wherein you have intimated that according to Rule-4(A)(b) of PMS Rules, 2007, fourteen weeks training is mandatory for promotion of promotee PMS BS-17 officer to the post of PMS BS-18 and the officer is already undergoing training at PPSA w.e.f 10-08-2016.

2. I am further directed to again enclose herewith copies of the said appeals/representations of Mr. Asadullah, PMS BS-17 Home & Tribal Affairs Department, and Mr. Abdul Hameed Khan PMS BS-17, Assistant Commissioner, Nowshera, wherein they have requested for their promotion to BS-18 on regular basis w.e.f 27-05-2016 and Inclusion of their names in the Seniority list of PCS (EC) BS-17 in light of amendment in Section 4-A of the PMS Rules, 2007 without effecting the right of any officer.

3. I am therefore, directed to request that para-wise comments/grounds on which they were deferred from promotion to B-18 may be submitted to this Secretariat. at the earliest, as desired by the Competent Authority, please.

Yours faithfully,

Encls: As above

o/c

(Usman Ali Shah)
Section Officer (Admn.)

Endst: Even No. & Date

Copy for information is forwarded to the PS to Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.

o/c

Section Officer (Admn.)

14
33) Aux - N
N

SUBJECT:- NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS PROMOTION POLICY, 2009.

Dear Sir,

I am directed to refer to the subject noted above and to say that in order to consolidate the existing Promotion Policy, which is embodied in several circular letters issued in piecemeal from time to time, and to facilitate the line departments at every level in prompt processing of promotion cases of Provincial civil servants, it has been decided to issue the "North-West Frontier Province Civil Servants Promotion Policy, 2009" duly approved by the competent authority, for information and compliance by all concerned. This Policy will apply to promotions of all civil servants holding appointment on regular basis and will come into effect immediately. The Policy consists of the provisions given hereunder:-

I. Length of service.

(a) Minimum length of service for promotion to posts in various basic scales will be as under:

Basic Scale 18 :	5 years' service in BS-17
Basic Scale 19 :	12 years' service in BS-17 & above
Basic Scale 20 :	17 years' service in BS-17 & above

No proposal for promotion shall be entertained unless the condition of the prescribed length of service is fulfilled.

(b) Service in the lower pay scales for promotion to BP-18 shall be counted as follows:

- (i) Half of the service in BS-16 and one fourth in Basic Scales lower than 16, if any, shall be counted as service in Basic Scale 17.
- (ii) Where initial recruitment takes place in Basic Scale 18 and 19, the length of service prescribed for promotion to higher Basic Scales shall be reduced as indicated below:

Basic Scale 19 :	7 years' service in BS-18
Basic Scale 20 :	10 years' service in BS-18 and above or 3 years' service in BS-19.

II. Linking of promotion with training:

(a) Successful completion of the following trainings is mandatory for promotions of officers of the Provincial Civil Service / Provincial Management Service to various Basic Scales:

- Mid-Career Management Course at National Institute of Management (NIM) for promotion to BS-19

1. Notified vide letter No. SOE-III (E&AD)1-3/2008 Dated Peshawar the 28th January, 2009.
[Source www.nwfp.gov.pk]

Attest
[Signature]

[Signature]

ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

THE NORTH-WEST FRONTIER PROVINCE PROVINCIAL MANAGEMENT SERVICE RULES, 2007

Ann - 0 (34)

1. Short title and commencement.—(1) These rules may be called the North-West Frontier Province Provincial Management Service Rules, 2007.
(2) These rules shall come into force at once.

2. Definitions.—In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say—

- (a) "appointing authority" means the appointing authority as specified in rule 5 of these rules;
- (b) "Commission" means the North-West Frontier Province Public Service Commission;
- (c) "Department" means the Establishment and Administration Department;
- (d) "Departmental Examination" means the prescribed examination to be conducted by the Department for confirmation within probationary period or for promotion to higher post, as the case may be;
- (e) "Departmental Training" means any training prescribed by Government, the successful completion whereof is necessary for promotion to BS-18 and BS-19;
- (f) "Schedule" means the Schedule appended to these rules;
- (g) "Service" means the Provincial Management Service;
- (h) "Secretariat" means the North-West Frontier Province Civil Secretariat as defined in rule 2(r) of the North-West Frontier Province Government Rules of Business, 1981 and
- (i) "share" means the share specified for distribution between All Pakistan Unified Group and Provincial Officers as per Schedule-III.

3. Nomenclature of the posts.—The Service shall consist of the posts as specified in Schedule-I.

4. Method of recruitment.—(1) The method of recruitment, minimum qualification limit and other matters related thereto for the Service shall be as given in Schedule-I.

(2) Fifty per cent of posts in BPS-17 shall be filled in by initial recruitment through Commission and remaining by promotion. Ten percent of Secretariat posts in BPS-17 to 19 shall be reserved for officers of technical departments on reciprocal basis. Government may reserve twenty per cent posts for leave, deputation and training etc in each pay scale.

(3) Posts specified in Schedule-II shall be filled in by Officers borne on Provincial Management Service and All Pakistan Unified Group in the ratio prescribed in Schedule-III.

Actual No. of Days		No. of Days		Remarks	
Absence		Present		ATTESTATION	
10+11+12+14+15+17+19		10		Total leave (Column 7-20)	
		20		Balance on 01.07.1978/return from leave	
		21			
		22			
		23			

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Amir Khan
M. A. Khan

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	University.		<p>conducted by it in accordance with the provisions contained in Schedule - VII.</p> <p>2) Subject to rule 7, by promotion in the following manner:</p> <p>(a) twenty per cent from amongst Tehsildars, who are graduates, on the basis of seniority-cum-fitness, having five years service as Tehsildar and have passed the prescribed Departmental Examination; and</p> <p>(b) twenty per cent from amongst Superintendents /Private Secretaries on seniority-cum-fitness basis, who are graduate and have undergone a training course of 9-weeks at the Provincial Management Academy/Provincial Staff Training Institute. A joint seniority list of the Superintendents and Private Secretaries shall be maintained for the purpose of promotion on the basis of their continuous regular appointment to the respective posts.</p> <p>3) Ten per cent by selection on merit, on the basis of competitive examination, to be conducted by the Commission in accordance with the provisions contained in Schedule-VII, from amongst persons holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stenographers, Stenographers, Data Entry Operators, Computer Operators, Senior and Junior Clerks who possess post graduate qualification from a recognized University and have atleast five years service under Government.</p>
2	PMS(BS-18) as per detail at Schedule-II	NIL	By promotion, on seniority-cum-fitness basis, from amongst the officers of PMS in BS-17 having at least five years service and have passed the prescribed Departmental Training/ or Departmental Examination.
3	PMS(BS-19) as per detail at Schedule-II.	NIL	By promotion, on the basis of seniority-cum-fitness, from amongst PMS officers holding posts in BS-18 and having at least 12 years service against posts in BS-17 and above and have passed the prescribed Departmental Training/ Examinations.

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&AD)3-
3-5/2007/(PMS)

1. The Word Schedule-IV replaced by Schedule VII vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007

2. The Word Schedule-IV replaced by Schedule VII vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007

(16)

(37) Aux-P

SUBJECT:- NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS PROMOTION POLICY, 2009.

Dear Sir,

I am directed to refer to the subject noted above and to say that in order to consolidate the existing Promotion Policy, which is embodied in several circular letters issued in piecemeal from time to time, and to facilitate the line departments at every level in prompt processing of promotion cases of Provincial civil servants, it has been decided to issue the "North-West Frontier Province Civil Servants Promotion Policy, 2009" duly approved by the competent authority, for information and compliance by all concerned. This Policy will apply to promotions of all civil servants holding appointment on regular basis and will come into effect immediately. The Policy consists of the provisions given hereunder:-

I. Length of service.

(a) Minimum length of service for promotion to posts in various basic scales will be as under:

Basic Scale 18 :	5 years' service in BS-17
Basic Scale 19 :	12 years' service in BS-17 & above
Basic Scale 20 :	17 years' service in BS-17 & above

No proposal for promotion shall be entertained unless the condition of the prescribed length of service is fulfilled.

(b) Service in the lower pay scales for promotion to BP-18 shall be counted as follows:

(i) Half of the service in BS-16 and one fourth in Basic Scales lower than 16, if any, shall be counted as service in Basic Scale 17.

(ii) Where initial recruitment takes place in Basic Scale 18 and 19, the length of service prescribed for promotion to higher Basic Scales shall be reduced as indicated below:

Basic Scale 19 :	7 years' service in BS-18
Basic Scale 20 :	10 years' service in BS-18 and above or 3 years' service in BS-19.

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(a) Successful completion of the following trainings is mandatory for promotions of officers of the Provincial Civil Service / Provincial Management Service to various Basic Scales:-

- Mid-Career Management Course at National Institute of Management (NIM) for promotion to BS-19

1. Notified vide letter No. SOE-III (E&AD)1-3/2008 Dated Peshawar the 28th January, 2009.
[Source www.nwfp.gov.pk]

(Handwritten signatures and initials)

- Senior Management Course at National Management College, Lahore for promotion to BS-20
 - National Management Course at National Management College, Lahore for promotion to BS-21
- (b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing Promotion Policy.
- (c) The qualifying thresholds of quantification of PERs for nomination to these trainings are as under:
- | | |
|------|----|
| MCMC | 60 |
| SMC | 70 |
| NMC | 75 |
- (d) There will be no exemptions from mandatory trainings. An officer may, however, request for temporary exemption in a particular moment in time but grant of such exemption would be at the discretion of the competent authority. No such request with regard to an officer would be made by the Government Departments concerned.
- (e) Three officers shall be nominated for each slot of promotion on the basis of their seniority. Those unwilling to attend will be dropped at their own expense without prejudice to the rights of others and without thwarting or minimizing the chance of improving the quality of service.
- (f) Officers failing to undergo mandatory training in spite of two time nominations for a training shall stand superseded if such failure was not for the reasons beyond the control of the officers concerned.

III. Development of Comprehensive Efficiency Index (CEI) for promotion:

- (a) The Comprehensive Efficiency Index to be maintained for the purpose of promotion is clarified as under:
- (i) The minimum of aggregate marks for promotion to various grades shall be as follows:

Basic Scale	Aggregate marks of Efficiency Index
18	50
19	60
20	70
21	75

Annex-2

39

- Senior Management Course at National Management College, Lahore for promotion to BS-20
 - National Management Course at National Management College, Lahore for promotion to BS-21
- (b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing Promotion Policy.
- (c) The qualifying thresholds of quantification of PERs for nomination to these trainings are as under:
- | | |
|------|----|
| MCMC | 60 |
| SMC | 70 |
| NMC | 75 |
- (d) There will be no exemptions from mandatory trainings. An officer may, however, request for temporary exemption in a particular moment in time but grant of such exemption would be at the discretion of the competent authority. No such request with regard to an officer would be made by the Government Departments concerned.
- (e) Three officers shall be nominated for each slot of promotion on the basis of their seniority. Those unwilling to attend will be dropped at their own expense without prejudice to the rights of others and without thwarting or minimizing the chance of improving the quality of service.
- (f) Officers failing to undergo mandatory training in spite of two time nominations for a training shall stand superseded if such failure was not for the reasons beyond the control of the officers concerned.

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- (i) The minimum of aggregate marks for promotion to various grades shall be as follows:

Basic Scale	Aggregate marks of Efficiency Index
18	50
19	60
20	70
21	75

Attended
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Amir
Amir

(ii) A panel of two senior most officers shall be placed before the Provincial Selection Board for each vacancy in respect of promotion to BS-18 & 19. Similarly, a panel of three senior most officers shall be submitted to the Provincial Selection Board for each position in respect of promotion to BS-20 and 21 and the officer with the requisite score on the Efficiency Index shall be recommended for promotion.

(iii) The senior most officer(s) on the panel securing the requisite threshold of the Efficiency Index shall be recommended by the Provincial Selection Board for promotion unless otherwise deferred. In case of failure to attain the requisite threshold, he-(she)/they shall be superseded and the next officer on the panel shall be considered for promotion.

(b) Marks for quantification of PERs, Training Evaluation Reports and Provincial Selection Board evaluation shall be assigned as under:-

Sl. No.	Factor	Marks for promotion to BS-18 & 19	Marks for promotion to BS-20 & 21
1	Quantification of PERs relating to present grade and previous grade(s) @ 60% : 40%	100%	70%
2	Training Evaluation Reports as explained hereafter.	--	15%
3	Evaluation by PSB	--	15%
	Total.	100%	100%

(c) A total of fifteen (15) marks shall be allocated to the Training Evaluation Reports (Nine marks @ 60% for the training in the existing BPS and Six marks @ 40% in the preceding BS). Evaluation of the reports from the Training Institutions shall be worked out as under:-

(i) It shall be on the basis of Grade Percentage already awarded by the National School of Public Policy (National Management College and Senior Management Wing) and its allied Training Institutions as provided in their reports.

(ii) Previous reports of old Pakistan Administrative Staff College and old NIPAs where no such percentage has been awarded, points shall be worked out on the basis of weighted average of the percentage range of grades followed by these Institutions as reflected in table-A below:

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18/10/2016

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مقدمہ:

دعویٰ:

جرم:

بنام:

السید الحسن

طوبی

S.A
باجت تحریر آفد

مقدمہ مندرجہ عنوان بالا اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آئن مقام کیلئے امجد علی ایڈووکیٹ، سپریم کورٹ آف پاکستان اسلام آباد

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زاریں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سنڈ رہے۔

المرقوم:

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گواہ

العبد

بمقام

Attest and Accept
Amjad Ali
Amjad Ali

Amjad Ali

Amjad Ali

**SUPREME COURT
BAR ASSOCIATION
PAKISTAN**

**Amjad Ali
Advocate**

Amjad Ali
President

Secretary

Address: Faza Iqbal College, Mardan NWFP, P.N.C: 16101-3170297
Pakistan

Tel: 033-7773585 Mob: 0321-0682434



This card is the property of SCBA Pakistan. If found, please mail it to the above following address:
Supreme Court Bar Association, Pakistan
Constitution Avenue, Islamabad, Tel: 051/9215185, 9208247



**KHYBER PAKHTUNKHWA
BAR COUNCIL**

ADVOCATE

AQEEL AHMAD
Advocate
bc: 14-4714
Date of Issue: 10-03-2015
Valid upto: 10-03-2018



Aqeel Ahmad
Secretary
KP Bar Council

Father's Name: **Kasem Ullah Ahmad**
Address: **Kasem Alsadka Kachhona, Tehsil
& Dist. Mardan**
Office Tel: **0927-872167, Call: 0333-5730600**
Enrollment Date: **L.C: 17-02-2015**
Place of Practice: **Mardan**
Date of Birth: **09-05-1986**
Blood Group: **A+ve**
C.N.I.C No: **16101-3778436**

KHYBER PAKHTUNKHWA BAR COUNCIL

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. 1101/2016

Asad Ullah Khan (PMS BS-17).....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Establishment Civil Secretary, Peshawar.
2. Chief Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar
(Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action/locus standi to file the instant appeal against the Respondents.
2. That the appeal is not maintainable in its present form.
3. That the appellant has presented the facts in a manipulated form which disentitles him for any relief whatsoever.
4. That the appeal is bared by law/time.
5. That the appellant has suppressed material facts from the Tribunal.
6. That the appellant has not come to the Tribunal with clean hands.
7. That the appellant is estopped to file the instant appeal due to his own conduct.
8. That the appeal is bad for non-joinder of necessary parties and misjoinder of unnecessary parties.
9. That the instant appeal is hit by Section 4(1) (b) (ii) of the Khyber Pakhtunkhwa, Services Tribunal Act, 1974.
10. That the appeal is hit by laches.
11. The appellant is not working as Deputy District Officer (Finance) Mardan rather he is an Account Officer of Local Government.
12. That the Civil Services laws do not provide repeated representations.
13. That the Hon'able Tribunal has no jurisdiction to entertain the appeal.

ON FACTS:

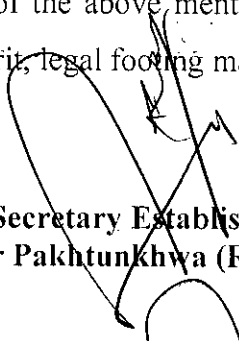
1. Pertains to the record of Board of Revenue.
2. Pertains to the record of Board of Revenue.
3. **Correct.**
4. **Correct.**
5. Since then (2009-15) appellant was junior and was not in promotion zone, therefore he was not nominated for the mandatory training for promotion to PMS BS-18.
6. **Correct.** The training was stopped as the case was under process at that time regarding amendment in the PMS Rules and proposed 14-weeks mandatory training instead of 18 months for promotee PMS Officers.

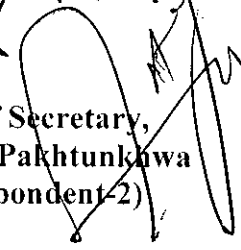
7. **Correct.**
8. **Incorrect.** The respondents did not defer the promotion of appellant rather Provincial Selection Board considered the promotion of appellant alongwith others and was deferred due to not undergoing of mandatory training for promotion to PMS BS-18. He was considered by the PSB and deferred. Copies of the minutes is at **Annex-A**.
9. **Correct.**
10. Pertains to record.
11. **Incorrect.** The directions of the competent authority were considered by the PSB. The Board being the competent forum having prerogative powers to defer the appellant due to not undergoing mandatory training for PMS BS-18.
12. Appeal of the appellant was processed and placed before the PSB however, the Board deferred the appellant due to not undergoing training, mandatory for promotion to PMS BS-18.
13. **Correct.** The appellant as well as other promotee PMS BS-17 were offered 14 weeks mandatory training for promotion to PMS BS-18 w.e.f. 10.08.2016.
14. After completion of the 14-weeks mandatory training, the promotion case of appellant as well as others was placed before the PSB, the Board considered their promotion cases and those promoted to PMS BS-18 who were otherwise eligible. However, the appellant was deferred due to pending disciplinary proceedings and stay granted by the Peshawar High Court. Minutes of the PSB meeting is at **Annex-B**.
15. **Incorrect.** Deferment of the appellant is according to Law/Rules/Policy and facts.

ON GROUNDS:

- A. **Incorrect.** According to Rule-4-A(b) of PMS Rules, 2007, 14 weeks training is mandatory for PMS BS-17 officer appointed through promotion, either from Tehsildar Cadre or Superintendents or Private Secretaries and Personal Assistants Cadre. Therefore, the deferment of the appellant was due to not undergoing the mandatory training and not for length of service.
- B. Correct to the extent that the length of Service for promotion to PMS BS-18 is five years and having passed the prescribed departmental training or departmental examination. However, the appellant had not undergone 14-weeks mandatory training for promotion of PMS BS-18.
- C. **Incorrect.** According to Schedule-I of PMS Rules, 2007, prescribed departmental training/examination (MCMC), advance training course from NIPA (NMC) and course from Pakistan Administrative Staff College/National Defence College or from any other training institute prescribed by the Government (SMC) are mandatory for promotion to the post of PMS BS-19, 20 and 21.
- D. **Incorrect.** As explained in paras-A & B above.
- E. **Incorrect.** The deferment of the appellant from promotion to PMS BS-18 is according to Law/Rules/Policy.
- F. **Incorrect.** As explained in preceding paras.

In the light of the above mentioned submissions, facts, the instant appeal being devoid of merit, legal footing may graciously be filed/dissmised.


**Secretary Establishment,
Khyber Pakhtunkhwa (Respondent-1)**


**Chief Secretary,
Khyber Pakhtunkhwa
(Respondent-2)**

⑤

ESTABLISHMENT DEPARTMENT

(Meeting of PSB held on 10.05.2016)

SUBJECT: - PROMOTION OF PMS BS-17 OFFICERS TO BS-18.

Secretary Establishment apprised the Board that number of schedule posts in BS-18 falling to the share of PCS (EG)/PCS (SG) and PMS are one hundred and twenty seven (127) where one hundred and six (106) officers are already working. Hence twenty one (21) posts of BS-18 are lying vacant.

2. According to Service Rules of PMS, the post in BS-18 is required to be filled as under:-

- i. By promotion, on seniority-cum-fitness basis, from amongst the officers of PMS in BS-17 having at least five years service and have passed the prescribed Departmental Training or Departmental Examination.
- ii. Under the policy of Provincial Government, eighteen (18) months training is mandatory for promotion to BS-18. However the officers who attained the age of 50 years or above on 1st July of the year in which the training is scheduled or promotion is being considered shall be exempted from training.

3. The service record of the officers included in the panel was discussed one by one as under: -

S No	NAME OF OFFICER	RECOMMENDATIONS OF THE BOARD
1.	Mr. Jehanzeb Khan	His date of birth is 12.04.1967. He joined government service on 01.01.1992. He was promoted to BS-17 on 27.05.2008. The Board in its meeting held on 04.06.2015 and 30.11.2015 recommended to defer his promotion as he had not undergone training mandatory for promotion. Position is still the same. The Board recommended to defer his promotion
2.	Mr. Mansoor Qaiser	His date of birth is 30.03.1966. He joined government service on 01.01.1992. He was promoted to BS-17 on 27.05.2008. The Board in its meeting held on 04.06.2015 and 30.11.2015 recommended to defer his promotion as he had not undergone training mandatory for promotion. He is now exempted from training mandatory for promotion due to age factor. No enquiry is pending against him. His service record upto 2015 is generally good.

		The Board recommended the officer for promotion to BS-18 on regular basis. He will be on probation till retirement.
24.	Ms. Mussarrat Ismail Butt	<p>Her date of birth is 01.01.1962. She joined government service on 13.12.1982. She was promoted to BS-17 on 03.03.2009. She is exempted from training mandatory for promotion due to age factor. No enquiry is pending against her. Her service record upto 2015 is generally good. Presently she is on deputation to Cabinet Division Islamabad.</p> <p>The Board recommended the officer for promotion to BS-18 on regular basis. She will be on probation for a period of one year. She will actualize promotion in her own cadre.</p>
25.	Mr. Abdul Kabir Khan	<p>His date of birth is 25.04.1965. He joined government service on 29.04.1998. He was promoted to BS-17 on 21.12.2011. He is exempted from training mandatory for promotion due to age factor. No enquiry is pending against him. His service record upto 2015 is generally good.</p> <p>The Board recommended the officer for promotion to BS-18 on regular basis. He will be on probation for a period of one year.</p>
26.	Mr. Abdul Hameed Khan	<p>His date of birth is 09.02.1972. He joined government service on 29.04.1998. He was promoted to BS-17 on 03.03.2009. He has not undergone training mandatory for promotion</p> <p>The Board recommended to defer his promotion.</p>
27.	Mr. Asadullah Khan	<p>His date of birth is 02.03.1969. He joined government service on 14.07.1998. He was promoted to BS-17 on 03.03.2009. He has not undergone training mandatory for promotion</p> <p>The Board recommended to defer his promotion.</p>
28.	Mr. Javed Ali	<p>His date of birth is 15.08.1969. He joined government service on 15.07.1998. He was promoted to BS-17 on 03.03.2009. He has not undergone training mandatory for promotion</p> <p>The Board recommended to defer his promotion.</p>
29.	Mr. Tariq Ali Khan	<p>His date of birth is 14.12.1970. He joined government service on 14.07.1998. He was promoted to BS-17 on 03.03.2009. He has not undergone training mandatory for promotion</p>

SUBJECT: - PROMOTION OF PMS BS-17 OFFICERS TO BS-18.

Secretary Establishment apprised the Board that number of scheduled posts in BS-18 falling to the share of PCS (EG)/PCS (SG) and PMS are one hundred and thirty three (133) where one hundred and twenty nine (129) Officers are already working. Besides, the Board recommended two (02) Officers of PCS (EG)/ (SG) BS-18 to BS-19 as a result of which 02 posts in BS-18 also became vacant. Hence six (06) posts are lying vacant.

2. According to Service Rules of PMS, the post in BS-18 is required to be filled as under:-

"By promotion, on seniority-cum-fitness, from amongst the officers of PMS in BS-17 having at least five years service and have passed the prescribed Departmental Training or Departmental Examination". However the officers who attained the age of 50 years are exempted from mandatory training till 06.02.2016

3. The service record of the officers included in the panel was discussed one by one as under: -

S. #	NAME OF OFFICER	RECOMMENDATIONS OF THE BOARD
1.	Mr. Maqsood Hassan	His date of birth is 10.03.1967. He joined government service on 01.01.1992. He was promoted to BS-17 on 27.05.2008. The Board in its meeting held on 04.06.2015, 30.11.2015, 10.05.2016, 29.06.2016, 27.07.2016 and 29.08.2016 recommended to defer his promotion as the Board was informed that he was involved in a NAB case and had also not undergone mandatory training. The Board in its meeting held on 28.12.2016 recommended to defer his promotion. The Board was informed that he has now undergone mandatory training. However the NAB case is still pending against him. Position is still the same. The Board recommended to defer his promotion and directed to initiate disciplinary proceedings against him.
2.	Mr. Qayum Nawaz	His date of birth is 07.04.1958. He joined government service on 01.01.1992. He was promoted to BS-17 on 07.11.2008. The Board in its meeting held on 10.05.2016, 29.06.2016, 27.07.2016, 29.08.2016 and 28.12.2016 recommended to defer his promotion as he was under suspension in a NAB

		<p>case and his PERs for the year 2008 to 2015 were also not available. The Board was informed that he is still under suspension in pursuance of Supreme Court order 24.09.2014.</p> <p>The Board recommended to defer his promotion and directed to initiate disciplinary proceedings against him.</p>
3.	Mr. Asadullah Khan	<p>His date of birth is 02.03.1969. He joined government service on 14.07.1998. He was promoted to BS-17 on 03.03.2009. The Board in its meeting held on 10.05.2016, 29.06.2016, 27.07.2016 and 29.08.2016 recommended to defer his promotion as he had not undergone training mandatory for promotion. The Board in its meeting held on 28.12.2016 recommended to defer his promotion as the Board was informed that he has now undergone mandatory training for promotion; however an enquiry is pending against him. The Board desired that opinion of the Law department may be solicited in his case by Establishment department.</p> <p>The Board recommended to defer his promotion.</p>
4.	Mr. Fazal Hussain	<p>His date of birth is 18.02.1971. He joined government service on 29.04.1998. He was promoted to BS-17 on 25.03.2010. The Board in its meeting held on 29.06.2016, 27.07.2016 and 29.08.2016 recommended to defer his promotion as he had not attended training mandatory for promotion. The Board in its meeting held on 28.12.2016 recommended to defer his promotion as the Board was informed that he has made voluntarily return (VR) with NAB and disciplinary proceedings are under process against him.</p> <p>The Board recommended to defer his promotion</p>
5.	Mr. Hafiz Atta ul Mumin	<p>His date of birth is 01.01.1979. He joined government service on 09.05.2010 in BS-17. No enquiry is pending against him. His service record upto 2015 is generally good.</p> <p>The Board recommended the officer for promotion to BS-18 on regular basis. He will be on probation for a period of one year.</p>
6.	Mr. Javed Ali	<p>His date of birth is 03.06.1978. He joined government service on 09.05.2010 in BS-17. No enquiry is pending against him. His service record upto 2015 is generally good.</p> <p>The Board recommended the officer for promotion to BS-18 on regular basis. He will be on probation for a period of one year.</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

In re:

S.A.No.1101/2016

Asad Ullah Khan.....Appellant

V/S

Govt. of Khyber Pakhtunkhwa through
Secretary Establishment and othersRespondents

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S.No.	Description of documents.	Annexure	Pages.
1	Rejoinder with affidavit		1-5
2	Copy of Para-II(d) of KPK Promotion Policy	R-1	6-7
3	Copies of Superior Courts judgments, Law Deptt; Opinion dated 21.07.2016 and KPK Establishment Deptt; Instructions	R-2	8-19
4	Copy of 1989 SCMR 808	R/3	20-22
5	Copy of Schedule-I	R/4	23-24

Appellant

Through

Amjad Ali (Mardan)

Advocate

Supreme Court of Pakistan

Cell: 0321-9882434

Dated:

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

In re:

S.A.No.1101/2016

Asad Ullah Khan.....Appellant

V/S

Govt. of Khyber Pakhtunkhwa through
Secretary Establishment and othersRespondents

REJOINDER ON BEHALF OF THE APPELLANT

Sir,

PRELIMINARY OBJECTION

That all the preliminary objections are incorrect,
misconceived, denied.

ON FACTS

1. That Para-1 of the appeal has been responded as pertains to record, which means admission.
2. That Para-2 has been responded as pertains to record, which means admission.
3. That Para-3 has been responded as "Correct".
4. That Para-4 has been responded as "Correct"

According to PMS Rules 2007, Criteria for promotion to BS-18 is Five (05) years' service alongwith prescribed Departmental Training or Departmental Examination.

(2)

The appellant has more than six years' service in BS-17. He has also passed the prescribed Departmental Examination for promotion to BPS-18 on the date of Provincial Selection Board Meeting on 10.05.2016, but still the appellant was deferred from promotion to BS-18, which is illegal,

5. That Para-5 of the appeal is correct, while that of reply is incorrect, hence denied.
6. That Para-6 of the appeal has been responded as "Correct".
7. That Para-7 of the appeal has been responded as "Correct". The respondents themselves stopped training of the appellant on the one hand and on the other hand deferred the promotion of the appellant for lack of training, which is illegal and unlawful on the part of the respondents.
8. That Para-8 of the appeal is correct, while that of reply is incorrect, hence denied. The respondents have not offered any comments about the observation of the competent authority dated 27.05.2016.
9. That Para-9 of the appeal has been responded as "Correct". The respondents backed out of their statement as they did not promote the appellant even after completion of Training.
10. That Para-10 of the appeal has been responded as "pertains to record", which means admission.

The respondents have clearly ignored the directions of the competent authority, who can exempt any officer

from Training according to Para-II(d) of the KPK Promotion Policy 2009 reproduced as under:-

"There will be no exemptions from mandatory Trainings. An Officer may, however, request for temporary exemption in a particular moment in time, but grant of such exemption would be at the discretion of the competent authority. No such request with regard to an officer would be made by the Government Departments concerned"

(Copy of Para-II(d) of KPK Promotion Policy is Annex as "R/1")

11. That Para-11 of the appeal is correct, while that of the reply is incorrect, hence denied.
12. That Para-12 of the appeal is correct, while that of reply is incorrect, hence denied.
13. That Para-13 of the appeal has been responded as "Correct".
14. That Para-14 of the appeal is correct, while that of reply is incorrect. According to *2000 SCMR 645, PLJ 2015 Lahore 24(DB), PLJ 2015 Lahore 45, Government of Khyber Pakhtunkhwa Law Department Opinion dated 21st July, 2016 and KPK Establishment Department Instructions dated 09.03.2016*, Promotion of Civil Servant cannot be deferred due to pending departmental proceedings. **(Copies of Superior Courts judgments, Law Deptt; Opinion dated 21.07.2016 and KPK Establishment Deptt; Instructions are Annex "R/2")**

15. That Para-15 of the appeal is correct, while that of reply is incorrect. According to 1989 SCMR 808, matter of promotion of ~~Civil~~ Servants be decided in accordance with law and Rules instead of policies. (*Copy of 1989 SCMR 808 is Annex "R/3"*)

GROUNDS

- A. That Ground "A" of the appeal is correct, while that of the reply is incorrect, hence denied.
- B. That Ground "B" of the appeal has been responded as "Correct". On 10.05.2016 when meeting of the Provincial Selection Board was held, the appellant was eligible and fit for promotion to BS-18 as per promotion criteria. The appellant has more than 06 years' service in BS-17. The appellant has also passed the prescribed Departmental Examination as admitted by the respondents in Para-4 of the appeal. So far as training is concerned, it was stopped by the respondents themselves before the date of PSB meeting on 10.05.2016.
- C. That Grounds "C" of the appeal is correct, while that of reply is incorrect, hence denied.

According to Schedule-I of PMS Rules, 2007, Training/ Examination of MCMC, NMC and SMC are mandatory for promotion to BS-19, 20 and 21 only. No such Training is mandatory for promotion to BS-18. The only criteria for promotion to BS-18 is Departmental Training or Departmental Exam. The appellant has already passed the said Departmental Exam. (*Copy of Schedule-I is Annex "R/4"*)

5

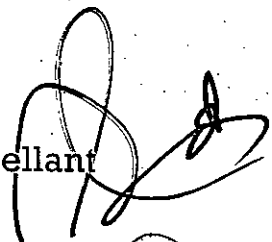
D. That Ground "D" of the appeal is correct, while that of reply is incorrect, hence denied.

E. That Ground "E" of the appeal is correct, while that of reply is incorrect, hence denied.

F. That Ground "F" of the appeal is correct, while that of the reply is incorrect, hence denied.

PRAYER

It is, therefore, humbly requested that appeal may please be accepted.

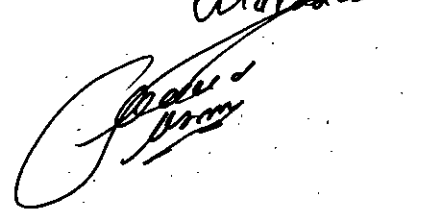
Appellant
Through 

Amjid Ali (Mardan)
Advocate
Supreme Court of Pakistan

AFFIDAVIT

I, do hereby affirm and declare as per information furnished by my client that the contents of the accompanying **Rejoinder** are true and correct and nothing has been concealed from this Hon'ble Court.


Deponent

*All on oath confirmed
Saeed Usman
Advocate
Mardan*


Ann - R/7

**SUBJECT:- NORTH-WEST FRONTIER PROVINCE CIVIL
SERVANTS PROMOTION POLICY, 2009.**

Dear Sir,

I am directed to refer to the subject noted above and to say that in order to consolidate the existing Promotion Policy, which is embodied in several circular letters issued in piecemeal from time to time, and to facilitate the line departments at every level in prompt processing of promotion cases of Provincial civil servants, it has been decided to issue the "North-West Frontier Province Civil Servants Promotion Policy, 2009" duly approved by the competent authority, for information and compliance by all concerned. This Policy will apply to promotions of all civil servants holding appointment on regular basis and will come into effect immediately. The Policy consists of the provisions given hereunder:-

I. Length of service.

(a) Minimum length of service for promotion to posts in various basic scales will be as under:

Basic Scale 18 :	5 years' service in BS-17
Basic Scale 19 :	12 years' service in BS-17 & above
Basic Scale 20 :	17 years' service in BS-17 & above

No proposal for promotion shall be entertained unless the condition of the prescribed length of service is fulfilled.

(b) Service in the lower pay scales for promotion to BP-18 shall be counted as follows:

(i) Half of the service in BS-16 and one fourth in Basic Scales lower than 16, if any, shall be counted as service in Basic Scale 17.

(ii) Where initial recruitment takes place in Basic Scale 18 and 19, the length of service prescribed for promotion to higher Basic Scales shall be reduced as indicated below:

Basic Scale 19 :	7 years' service in BS-18
Basic Scale 20 :	10 years' service in BS-18 and above or 3 years' service in BS-19.

II. Linking of promotion with training:

(a) Successful completion of the following trainings is mandatory for promotions of officers of the Provincial Civil Service / Provincial Management Service to various Basic Scales:

- Mid-Career Management Course at National Institute of Management (NIM) for promotion to BS-19

1. Notified vide letter No. SOE-III (E&AD)1-3/2008 Dated Peshawar the 28th January, 2009
[Source www.nwfp.gov.pk]

■ Senior Management Course at National Management College, Lahore for promotion to BS-20

■ National Management Course at National Management College, Lahore for promotion to BS-21

(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely technical posts for promotion within their own line of specialization as envisaged in the existing Promotion Policy.

(c) The qualifying thresholds of quantification of PERs for nomination to these trainings are as under:

MCMC	60
SMC	70
NMC	75

(d) There will be no exemptions from mandatory trainings. An officer may, however, request for temporary exemption in a particular moment in time but grant of such exemption would be at the discretion of the competent authority. No such request with regard to an officer would be made by the Government Departments concerned.

(e) Three officers shall be nominated for each slot of promotion on the basis of their seniority. Those unwilling to attend will be dropped at their own expense without prejudice to the rights of others and without thwarting or minimizing the chance of improving the quality of service.

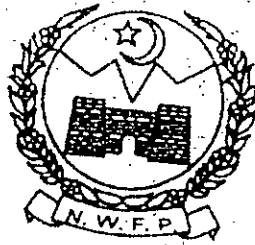
(f) Officers falling to undergo mandatory training in spite of two time nominations for a training shall stand superseded if such failure was not for the reasons beyond the control of the officers concerned.

III. Development of Comprehensive Efficiency Index (CEI) for promotion:

(a) The Comprehensive Efficiency Index to be maintained for the purpose of promotion is clarified as under:

(i) The minimum of aggregate marks for promotion to various grades shall be as follows:

Basic Scale	Aggregate marks of Efficiency Index
18	50
19	60
20	70
21	75



Ann-R/12
(8)

**INSTRUCTIONS
ON
PERFORMANCE EVALUATION
REPORT**

Compiled by
Establishment & Administration Department
Government of N.W.F.P.

CIVIL SECRETARIAT, PESHAWAR.

Corrected
upto March, 2006



FOREWORD

(9)


Performance Evaluation Report plays an important role in the career planning of a Government servant. It is the most frequently used document in the service record of an employee. The Government servants, Reporting and Countersigning officers are responsible to initiate, complete and maintain PERs of their subordinates in accordance with the prescribed procedure and in stipulated period of time. For completion of this task, they need approved guidelines and instructions.

A compendium of "Instruction on Performance Evaluation Reports" was last compiled and published in the year 2000. However, on introduction of the Local Government Ordinance 2001, District Governments were established and powers of appointment, promotion and transfers in respect of Government servants in BS-1 to BS-15 were delegated to District officers. Consequently the Reporting Officers and Countersigning Officers in respect of many employees were changed which necessitated amendments in the instructions. The instructions also needed streamlining and updation which necessitated their fresh publication.

A committee headed by Mr. Muhammad Hamayun Khan, Special Secretary Regulation, Mr. Akbar Khan, Deputy Secretary (Regulation-III) and Mr. Muhammad Jamil Section Officer (Secret) Establishment & Administration Department, rendered appreciable services and contribution to update these instructions. Without their efforts, compilation of this compendium of instructions would have not been possible. The new edition of instructions will greatly help and facilitate the Reporting Officers as well as the Countersigning Officers to evaluate the performance and conduct of their subordinates objectively and in a realistic manner.

Suggestions, if any, for improvement in this compendium of instructions would be welcomed and appreciated which may be addressed to the Secretary Establishment Government of NWFP, Civil Secretariat, Peshawar or faxed on 091-9210447.

March, 9th, 2006.


(MIAN SAHIB JAN)
Secretary to Government of NWFP
Establishment Department.

be considered as adverse in the case of an officer who fulfills the condition of length of service for promotion to the next higher grade and should be communicated to him.

(iii) It has been decided that if an officer is adjudged **unfit for continued retention in service** such an entry should be treated as adverse and should be communicated to the officer concerned.

4.4 Un-finalized Departmental Proceedings:- In the case of an officer against whom departmental proceedings are in progress, no mention whatsoever should be made about it in his Performance Evaluation Report. Only when such proceedings have been finalized, and the punishment, if any, has been awarded/exonerated should be mentioned in his Evaluation Report. In such a case complete copy of the final order may be placed, as is usually done, on his Character Roll.

4.5 According to the instructions (vide Para 4.4) no mention should be made in the Evaluation Report of a Government Servant, of the departmental proceedings which may be in progress against him, unless such proceedings have been finalized, and the punishment, if any, has been awarded. There is no bar to a Government servant being considered for promotion during the pendency of departmental proceedings against him? However, in such cases, a copy each of the charge sheet and the statement of allegations should be placed before the Provincial Selection Board or the Departmental Promotion Committee, as the case may be vide Establishment Division's O.M. No. 2/20/67-D.I., dated the 13th November, 1967 (printed at S. No. 118 of chapter V of the Establishment Manual, Volume-I, Reprint, 1968 and page 615 of, ESTACODE).

4.6. According to the instructions contained in the Establishment Division's letter No. 9(1)/58-SE.III, dated the 8th May, 1958 (Para 4.4) no mention whatsoever can be made about a departmental inquiry pending against an officer in the Evaluation Report. However, there should be no harm in making as mention about a criminal case pending against an officer in his C.R.

4.7 Evaluation Report:- If there are any adverse remarks in the Evaluation Reports prepared by NIPA and Administrative

111

2000 S C M R 645

[Supreme Court of Pakistan]

*Present: Irshad Hasan Khan, Munawar Ahmed Mina
and Ch. Muhammad Arif, JJ*

Maj. ZIAUL HASSAN, HOME SECRETARY
and others---Petitioners

versus

Mrs. NASEEM CHAUDHRY---Respondent

Criminal Petition No. 510-L of 1999, decided on 20th October, 1999.

(On appeal from the judgment, dated 27-9-1999 of the Lahore High Court, Lahore in Cr.Org.No.279-W of 1999).

Civil service-

---Promotion---Supreme Court had found that civil servant had not been promoted by superseding any officer senior to her; she was entitled to be promoted from the date her juniors were promoted and there was no valid reason not to consider her for the promotion---Mere fact that some disciplinary proceedings were pending against the civil servant was not a sufficient ground to disregard the order passed by the Supreme Court--Promotion of civil servant, however, would not debar the Authorities to continue with the disciplinary proceedings against the civil servant, if any, justly, fairly and in accordance with law.

Inspector-General of Police, Punjab, Lahore and others v. Mrs. Naseem Chaudhry and others C. P.L.A. No. 1617-L of 1997 ref.

Ghulam Haider Alghazali, Additional Advocate-General, Punjab and Rao Muhammad Yusuf, Advocate-on-Record for Petitioners.

Respondent in person.

Date of hearing: 20th October, 1999.

JUDGMENT

IRSHAD HASAN KHAN, J.---This petition is directed against the judgment, dated 27-9-1999 passed by the Lahore High Court in Crl. Original No.279-W of 1999

2. The dispute herein relates to the promotion of the respondent as Deputy Superintendent of Police.

3. This Court through judgment, dated 15-4-1999 passed in C.P.L.A. No. 1617-L of 1997 entitled The Inspector General of Police, Punjab, Lahore etc. v. Mrs. Naseem Chaudhry, etc., while dismissing

(12)

the appeal of the Inspector-General of Police against the order of the Punjab Service Tribunal, Lahore in Appeal No.3097 of 1997, made the following observation:--

"5. We have heard the learned counsel for the petitioner Dr. A.Basit learned senior counsel for the respondent/caveator and perused the available material on record. The Tribunal was right in holding that the respondent had not been promoted by superseding any officer senior to her. She was entitled to be promoted from the date her A juniors were promoted. There was no valid reason not to consider her case for promotion as DSP as above. The impugned order appears to be just, fair and equitable. Mr. Ghuman was unable to substantiate his plea that the impugned order suffers from any illegality. Be that as it may, no substantial question of public importance is involved to warrant interference in these proceedings."

4. The petitioner not implemented the above order passed by this Court. The respondent therefore, approached the High Court for redress of her grievance. The contempt application was also filed on 25-1-1999 wherein notice was issued to the petitioner, who took the plea that the respondent could not be promoted as some disciplinary proceedings had been initiated against her. The contention was repelled by the learned Judge in Chambers vide the impugned order, dated 27-9-1999, which is to the following effect:--

"The learned Advocate-General says that the petitioner has been suspended from service and as such the question of her promotion does not arise. The learned counsel for the petitioner has, however, placed on record, a copy of the order, passed by the Punjab Service Tribunal on 30-8-1999, whereby the order of suspension of the petitioner has been suspended. That being so, there is no hurdle left in the way the respondent for implementation of the orders passed by this Court. The needful shall now be done within one week from today failing which coercive process shall be issued against the respondents. "

5. The learned Additional Advocate-General, Punjab submitted that the High Court fell into error by not considering in true perspective that the disciplinary proceedings have been initiated against the respondent and, therefore, there was genuine hurdle in the way of petitioner to promote her in accordance with the orders passed by the Supreme Court as well as the High Court.

6. We are afraid that the mere fact that some disciplinary proceedings are pending against the respondent is not a sufficient ground to disregard the order passed by this Court. However, we may clarify that promotion of the 8 respondent as DSP will not debar the petitioner to continue with the disciplinary proceedings against the respondent if any, justly, fairly and in accordance with law.

7. With the above observation, the petition is dismissed and leave to appeal declined.

M.B.A./Z-33/S Petition dismissed.

10/1/2015

January 2015

PLJ 2015 Lahore 24 (DB)
[Multan Bench Multan]

Present: SHAHID WAHEED AND SHAH KHAWAR, JJ.
MUHAMMAD SALEEM--Petitioner

versus

GOVERNMENT OF PUNJAB through its Chief Secretary
and 6 others--Respondents
W.P. No. 14949 of 2012, decided on 15.7.2014.

Constitution of Pakistan, 1973--

---Art. 199--Promotion Policy Rules, 2010, R. 9(iv)--Promotion--Deferment was raising on creditability and unblemished career--Policy was challenged--Validity--Superior Courts--Civil servant against whom a departmental inquiry or criminal proceedings were pending was not an outcast for purpose of consideration of his case for promotion and there was no bar on his promotion--Any policy of government including Promotion Policy 2002 of Government of Punjab cannot come in its way and has become redundant. [P. 27] A & B

Mr. Muhammad Ali Siddiqui, Advocate for Petitioner.

Mr. M. Aurangzeb Khan, A.A.G. along with Saleem Akhtar Qureshi, District Officer Co-Operative Multan for Respondents No. 1, 2 and 3.

Date of hearing: 25.6.2014.

ORDER

In the instant writ petition, the petitioner being a civil servant has challenged the vires of Sub-Rule (IV) of Rule 9 of the Promotion Policy, 2010 and decision of Provincial Selection Board with respect to the deferment of the petitioner for promotion as same being Un-Islamic, Un-Constitutional, discriminatory and against the fundamental rights of the petitioner.

2. The question of law to be determined by this Court is reproduced is under:

"Whether promotion of the civil servant could be deferred which he otherwise entitled to, on a sole ground that a case or inquiry is pending against him in which he is yet to be proven guilty?"

3. Brief facts of the case are that the petitioner was appointed on 07.04.1984 as Assistant Registrar (BS-16) through Punjab Public Service Commission.

4. The promotion of the petitioner in BS-19 has been due since 04.12.2011 on the retirement of one Fayyaz-ul-Hassan Farooqi senior to him. However, he has not been promoted since that date.

5. On 1.3.2012, vide Notification No. SO(E)7-3/96(P-III), a final seniority list was issued by the Secretary Co-Operatives whereby, the petitioner was placed at Serial No. 1 and Respondents No. 4 to 7 were placed at Serial Nos. 2, 3, 4 and 5 respectively.

6. On 24.07.2012, meeting of the Provincial Selection Board-I was held whereby, Respondents No. 4 to 7 were promoted to BS-19 and the promotion of the petitioner was deferred.

7. Leaned counsel for the petitioner contends that the promotion of the petitioner was deferred which he otherwise is entitled to, as per the impugned rule. Further submits that the petitioner has a spotless career and is at verge of his retirement. Till today, not an FIR as well as not a single inquiry has been registered and initiated against him; hence his deferment is raising questions on his creditability and unblemished career, that requires kind interference by this Hon'ble Court. Reliance is placed on Captain Sarfraz Ahmdd Mufti vs. Government of the Punjab and others (1991 SCMR 163), Ma Ziaul Hassan, Home Secretary and others vs. Mrs. Naseem Chaudhry (2000 SCMR 645), Sh. Muhammad Riaz vs. Government of Punjab [(2003 PLC (CS) 1496] and Muhammad Afzal Khan vs. Government of Punjab through Secretary to Government of the Punjab, C&W Department and another [(2009 PLC (CS) 40)].

8. Report and parawise comments were filed by the respondents. One of the preliminary objections was that the matter relates with the terms and conditions of promotion and the petitioner has not availed his remedy by way of filing appeal before the Punjab Service Tribunal, hence Constitutional petition is not maintainable.

9. On facts, Respondents No. 1 & 2 also controverted the prayer made by the petitioner by contending that the promotion case of the petitioner was placed before the Punjab Selection Board, but the Board deferred the same due to the reason that an FIR No. 18/2010 Police Station Anti-Corruption

establishment, Multan is pending against the petitioner, and the petition is hit by the Promotion Policy 2010. However, a post in BS-19 has been reserved for the petitioner, subject to his exoneration from the above said case and will be granted promotion from the date when his juniors were promoted.

10. I have given anxious consideration to the arguments advanced by learned counsel for the petitioner and the learned AAG, Punjab.

11. Before arriving at a conclusion that the Policy under challenge is sustainable under the law or not, it will be proper to understand spirit of Article 8 of the Constitution of Pakistan 1973; which is re-produced herein under:--

"8. Laws inconsistent with or in derogation of Fundamental Rights to be void.--(1) Any law, or any custom or usage having the force of law, insofar as it is inconsistent with the rights conferred by this Chapter, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this clause shall, to the extent of such contravention, be void."

12. Admittedly in the constitution, the Superior Courts have been mandated to ascertain either any law is inconsistent with the rights conferred by the Constitution i.e. Fundamental Rights. In *Tariq Cotton Mills Ltd. and another vs. Joint Registrar, Joint Stock Companies and another* (1989 CLC 2013), it is held that the State is prohibited to make any law which curtails or take away any Fundamental Right and any law so made shall to the extent of inconsistency with such right, is to be void. The same principal of law has been enunciated in *Sharaf Faridi vs. The Federation of Islamic Republic of Pakistan through Prime Minister of Pakistan and another* (PLD 1989 Karachi 404), it was held that limitation has been placed on the Legislature not to curtail the Fundamental Rights or abridge them by any law.

13. Question of law raised by the petitioner is answered in following terms:--

(i) Any judgment passed by the Hon'ble Supreme Court of Pakistan, in which a question of law has been determined, is binding on all the Courts subordinate to the Apex Court, as contemplated in Article 189 of the Constitution of Islamic Republic of Pakistan, 1973.

(ii) The petition in hand has been filed on the touch stone of above quoted judgments of the Hon'ble Supreme Court of Pakistan.

(iii) In the case of *Maj Zail-ul-Hassan, Home Secretary vs. Mrs. Naseem Ch.* (2000 SCMR 645), the Hon'ble Supreme Court has held that:

"We are afraid that the mere fact that some disciplinary proceedings are pending against the respondent is not a sufficient ground to disregard the Order passed by this Court. However, we may clarify that promotion as DSP will not debar the petitioner to continue with the disciplinary proceedings against the respondent if any, justly, fairly and in accordance with law."

(iv) In case titled as *Captain Sarfraz Ahmad Mufti vs. Government of Punjab & others* ((sic) SCMR 1637) the Hon'ble Supreme Court upheld judgment of the High Court in which the High Court had directed departmental authorities that case of civil servant be placed before Promotion Board. The High Court had referred to certain Policy letters of the Government under which respondent civil servant's case for promotion merited consideration, but he was illegally ignored.

(v) In the same manner, in case of *Sh. Muhammad Riaz vs. Govt. of Punjab through Secretary Communication and Works and another* [(2003 PLC (C.S) 1496)] it was held that "withholding of promotion is a penalty and therefore refused to issue a formal notification of the promotion of the petitioner, after he had been recommended by the Provincial Selection Board, which was duly approved by the Competent Authority, was illegal and arbitrary in as much as that it was withheld on the ground of an anticipated departmental inquiry.

14. A principle of law has been enunciated by the Superior Courts. The nutshell of the same is that a civil servant against whom a departmental inquiry or criminal proceedings are pending is not an outcast for the purpose of consideration of his case for promotion and there is no bar on his promotion.

15. The above quoted judgments, in which question of law has been settled, have attained finality and force of law. Any policy of the Government including the Promotion Policy 2002 of the Government of the Punjab cannot come in its way and has become redundant.

16. For what has been discussed above, the instant writ petition is allowed. Sub Rule (iv) of Rule 9 of the Promotion Policy, 2002 of the Government of Punjab is hereby declared Un-Constitutional, against the spirit of Article 8 of the Constitution and against the principles of law enunciated by the Hon'ble Superior Courts of Pakistan. The respondent Department is directed to place the case of the petitioner to the Provincial Promotion Board and his case may be considered for promotion within a period of 30 days.
(R.A.) Petition allowed.

January 2015

PLJ 2015 Lahore 45
[Multan Bench Multan]

Present: SHAH KHAWAR, J.

SHAMA KHAN ZAFAR--Petitioner

versus

DISTRICT COORDINATION OFFICER, LODHRAN etc.--Respondents

W.P. No. 15606 of 2012, decided on 14.4.2014.

Constitution of Pakistan, 1973--

---Art. 199--Constitutional petition--Promotion to next higher grade--Appointment against leave vacancy--Seniority list of employees--Juniors were promoted--Inquiry was pending--Disciplinary proceedings pending against civil servant was not sufficient ground to disregard lawful right of four consideration for promotion. Validity--Mere pendency of departmental inquiry or in presence of minor penalty, a civil servant cannot be denied of his fundamental rights to be considered for promotion where his batch mates and even juniors are considered and promoted. Petitioner, who is a teacher by profession, must have gone through frustration and mental stress due to denial of his legal right--Concept of administration of justice has been defined and interpreted by a number of judicial pronouncements. [P. 49] A & B

Mr. Noor Ahmad Khan Meo, Advocate for Petitioner.

Mr. Aurangzeb Khan, Assistant Advocate General, Punjab for Respondents.

Date of hearing: 14.04.2014

ORDER

Through instant writ petition, the petitioner has called in question his non-consideration by the Departmental Promotion Committee for promotion to next higher grade i.e. BS-16 under uplift and upward mobility (Pay Package w.e.f. 1.12.2009).

2. Relevant facts giving rise to the filing of the instant writ petition are that the petitioner was appointed as PTC *vide* Letter No. 11079 dated 31.12.1984 and joined his duties at Government Primary School, Dera Mehro Markaz Karor Pacca, Lodhran. Later on, he was temporarily adjusted as EST against the leave vacancy of Mr. Hazoor Bakhsh, EST *vide* Letter No. 7870/Admn dated 28.10.1985 with the condition that appointment against leave vacancy is temporary up till 31.08.1986 and after the said date he was to report back at his original post i.e. PTC. Instead of report back to his original post the said teacher was adjusted as EST against the post of Mr. Hazoor Bakhsh *vide* Letter No. 3365/Admn dated 10.08.1986 by the competent authority. On query regarding verification/confirmation of posting of the petitioner as EST by the Deputy District Education Officer, Kehror Pacca as well as the Incharge Head Master, Govt. High School, Bahawal Garh, Tehsil Kehror Pacca, District Lodhran *vide* letters dated 27.09.2010 and 16.08.1986 respectively, the District Education Officer informed that the services of the petitioner as EST had already been confirmed/verified *vide* Letter No. 3365 dated 16.08.1986 on permanent basis.

3. Subsequently, the Chief Minister of the Punjab *vide* notification dated 06.11.2009 approved the structure for uplift and upward mobility of Primary and Elementary School Teachers (Male and Female) of all categories in Punjab w.e.f. 01.12.2009 as per ratio given below:--

Category of Teacher	Initial Level		Level I		Level II	
	Pay Scale	Ratio of Post	Pay Scale	Ratio of Post	Pay Scale	Ratio of Post
PSTs (Male & Female)	BS-9	50%	BS-12	35%	BS-14	15%
ESTs (Male & Female)	BS-14	50%	BS-15	35%	BS-16	15%

of (English)	BS-14	50%	BS-15	35%	BS-16	15%
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(P)

(P)

In this regard, the senioritylist of ESTs (General), District Lodhran was prepared in which the petitioner was placed at Sr.No. 17. The meeting of Departmental Promotion Committee, Lodhran was convened on 11.08.2011 but the petitioner, whose seniority was rated at Sr. No. 17, was not considered for the benefit of next higher grade BS-16 and his juniors, who were assigned seniority at Serial No. 18 to 65, were awarded BS-16. When the petitioner approached the Executive District Officer (Education), Lodhran, he was informed that his name was not considered by the Departmental Promotion Committee due to the reason that his inquiry was pending on the basis of an Audit Para in respect of his irregular appointment against the post as EST.

(17)

4. The petitioner prayed that a direction may be issued to the respondents to place his case before the Departmental Promotion Committee for fair consideration to award grade BS-16 under the structure of uplift and upward mobility at par with his batch mates.

5. Notice was issued to the respondents who filed report and para-wise comments wherein, it is mentioned that in the year 2006-09, the audit scrutiny was conducted by the Audit Department of office of the Deputy District Education Officer (M) Tehsil Kahrur Pacca. The Audit Officer raised the objection regarding appointment of the petitioner as EST at Government Middle School Mohammad Saeed Tehsil Kahrur Pacca in the shape of Advance Audit Para No. 02 that the appointment of the petitioner is irregular and needs an inquiry into the matter and an inquiry officer was deputed to look into the matter.

6. Learned counsel for the petitioner has argued that the pendency of inquiry on the basis of Audit Para could not have been made basis for non-consideration of the petitioner in the next higher grade BS-16. He contended that it is a well established law laid down by the Hon'ble Superior Courts that the pendency of inquiry and even minor penalty cannot come in the way of promotion. Reliance has been placed on *Maj. Ziaul Hassan, Home Secretary and others versus Mrs. Naseem Chaudhry* (2000 SCMR 645), *Mrs. Sanjida Irshad, Assistant Director Nursing, Bahawalpur versus Secretary to Government of the Punjab Health Department Lahore and others* [2008 PLC (C.S.) 1019] and *Muhammad Afzal Khan versus Government of Punjab through Secretary to Government of the Punjab C&W Department and another* [2009 PLC (C.S.) 40]. The Hon'ble Supreme Court of Pakistan in its judgment has held that some disciplinary proceedings pending against the civil servant is not a sufficient ground to disregard his lawful right of fair consideration for promotion. Moreover, the Hon'ble High Court in the above cited judgment has held that the civil servant cannot claim promotion as a matter of right, but it is an inalienable right to every civil servant that he be considered for promotion along with his batch mates, if he fulfills eligibility criteria.

7. During the course of arguments, learned Assistant Advocate General Punjab has fairly commented that a civil servant cannot be disregarded for promotion if one is not otherwise ineligible. He has fully agreed with the judgments passed by the Hon'ble Superior Courts on this issue.

8. I have given my anxious consideration to the arguments advanced by learned counsel for the petitioner as well as learned Assistant Advocate General and have perused the record with their able assistance.

9. This is an admitted position that the Chief Minister of the Punjab approved the structure of uplift and upward mobility of Primary and Elementary School Teachers of all categories *vide* notification dated 06.11.2009. In pursuance of the said notification, EST and other cadres were to be awarded next higher grade BS-15 & BS-16 on the basis of date of their regular appointments and length of service on the recommendations of District Selection Committee, Lodhran. Consequently, the District Education Officer, Lodhran notified seniority list for such promotion and petitioner's seniority was reckoned at Sr.No. 17 in the said list. The Departmental Promotion Committee was convened on 11.08.2011 but the petitioner's name was not placed before the same, as a result of which the juniors to the petitioner, who were assigned seniority against Sr. Nos. 18 to 65 were awarded BS-16. From the parawise comments filed by the respondents, it is made clear that the name of the petitioner was not placed before the Departmental Promotion Committee due to the reason that an inquiry on the basis of advance Audit Para was pending against him.

10. As held by the Hon'ble Superior Courts of the country that the pendency of inquiry and one minor penalty cannot come in the way of promotion of a civil servant. Further that civil servant cannot claim promotion as a matter of right but it is also undisputed fact that it is an inalienable right of every civil servant that he be considered for promotion alongwith his batch mates.

11. Surprisingly, in the instant case, the petitioner was deprived to be considered for promotion in the next higher grade BS-16 before Departmental Promotion Committee, Lodhran on the sole reason at his inquiry regarding Audit Para was pending.

12. Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 speaks about the right of individuals to be dealt with in accordance with law, to enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan. In the same manner, Article 25 of the Constitution of Islamic Republic of Pakistan, 1973 ensures equality of citizens by mandating that all citizens are equal before law and are entitled to equal protection of law.

13. Chapter-I of the Constitution of Islamic Republic of Pakistan, 1973 is an integral part of the Constitution and all State functionaries are duty bound to extend these rights across the board to the citizen. It is not necessary for State functionaries to have performed their Constitutional obligations after intervention of the Hon'ble Superior Courts. Under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 this Court has the jurisdiction to protect and enforce the fundamental rights of the citizens which have been denied. According to Article 5 of the Constitution of Islamic Republic of Pakistan, 1973, loyalty to State and obedience to Constitution and law is the inviolable obligation of every citizen wherever he may be and of every other person for the time being within Pakistan. The word "citizen" does not confine to the ordinary citizen of the country but also covers person's functions in connection with the affairs of the Federation, Province or a legal authority. All the State functionaries are duty bound to strictly adhere to the Constitution and specially Articles 4, 5 and 25 of the Constitution of Islamic Republic of Pakistan, 1973 while dealing with their day to day business. They should not wait for intervention of the Hon'ble Superior Courts but to extend equal treatment and protection of law whenever they are seized of the matters of the aggrieved persons.

14. In the present case, the respondents were mindful of the fact that there are number of judgments passed by the Hon'ble Superior Courts having decided question of law that mere pendency of departmental inquiry or in the presence of minor penalty, a civil servant cannot be denied of his fundamental rights to be considered for promotion where his batch mates and even juniors are considered and promoted. The department sat over the case of the petitioner for a long time waiting for the decision of this Court. The name of the petitioner could have been placed in the next scheduled meeting of Departmental Promotion Committee but the needful was not done in complete determent. The petitioner, who is a teacher by profession, must have gone through frustration and mental stress due to denial of his legal right. The concept of administration of justice has been defined and interpreted by a number of judicial pronouncements. Reference could be placed on the judgment passed by the Hon'ble Supreme Court of Pakistan in case titled *Samiullah Khan Marwat*

versus Government of Pakistan and another reported in [2003 SCMR 11401, in which concept of administration of justice has been interpreted, the relevant portion of the judgment is reproduced as under:

"The exercise of powers by the public functionaries in derogation to the direction of law would amount to disobey the command of law and the Constitution. The concept of administration of justice is not confined only to the judicial system rather every person discharging the functions in relation to the rights of people is bound to act fairly, justly and in accordance with law."

15. In the aforementioned circumstances, I have no other option except to allow the instant writ petition. The respondents are directed to place petitioner's promotion case before the Departmental Promotion Committee, Lodhran within a period of two months from the receipt of this order and the Departmental Promotion Committee shall consider the promotion case of the petitioner in highly fair and just manner. The result of the Departmental Promotion Committee shall be conveyed to this Court through the Deputy Registrar (Judicial). The instant writ petition is allowed in the above terms.

(R.A.) Petition allowed

Implementation
Recommendation 9th
DPC

P.S. Secretary (E & A)
Diary No. 5215
Date: 21/7/2016

GOVERNMENT OF KHYBER PAKHTUNKHWA
PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

No. SO(OP-II)/LD/5-6/2012-VOL-II-295/4-16
DATED: PESH: THE 21 JULY, 2016

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To

The Secretary to Govt of Khyber Pakhtunkhwa,
Public Health Engineering Department.


Subject: ADVICE REGARDING IMPLEMENTATION OF
RECOMMENDATIONS OF THE DEPARTMENTAL
PROMOTION COMMITTEE IN VIEW OF PENDING INQUIRY.

Dear Sir,

I am directed to refer to your Department's letter No.SO(Estt)/PHED/1-1/2016/I.R Karak dated 18-07-2016 on the subject noted above and to state that in accordance with para-V of Promotion Policy, 2009 promotion of a civil servant will be deferred in addition to para-IV of the said policy if disciplinary or Departmental proceedings are pending against him. Whereas, the Supreme Court of Pakistan in its Judgement, 2000 SCMR 645, declared that "Mere fact that some disciplinary proceedings were pending against the respondent was not a sufficient ground to stop the promotion of Civil servant. However, it would not debar the Authorities to continue with disciplinary proceeding against the Civil servant, if any, justly, fairly and accordance with law." Similarly in other decisions as cited, 2008 PLC (CS) 551, 2007 PLC (CS) 716, 2007 PLC (CS) P-4, which allows the promotion of civil servant even some disciplinary proceedings are pending against the civil servant. Hence, the promotion case/notification of civil servant cannot be deferred due to an anticipated formal inquiry which is tantamount to punishment in advance.

21/7
502-12

2. So, in light of Judgement of the Supreme Court it seems that the Promotion Policy is deficient on the point and needs to be updated in line with the Supreme Court Judgement as the decision of the superior Court always have over-riding effect on sub-ordinate legislation and policies.

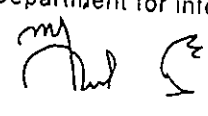
Yours Faithfully,


Section Officer (Opinion-II)

Endst: of even No. & date.

Copy forwarded for information to :-

- 1. The P.S to Secretary Law, Department.
- 2. The P.S to Secretary Establishment Department for information.



Aux R/3

Abdul Aziz Kundi, Advocate Supreme Court for Petitioners.
 Respondent No.1 in person.
 Nemo for Respondents Nos.2 to 5.
 Date of hearing: 26th November, 1988.

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ORDER

GHULAM MUJADDID, J.--Mst. Meno and others seek leave to appeal against the judgment of the Peshawar High Court, Peshawar, dated 8-6-1988.

Abdus Sattar respondent No.1 in this petition moved an application under section 17 of the Cantonments Rent Restriction Act XI of 1963 for ejection of Dilbar Khan and another, from Shop No.1020, Kali Bari Bazar, Peshawar Cantt.

The Rent Controller dismissed the application by order dated 16-2-1987. Abdus Sattar and others filed first appeal in the Peshawar High Court. That was allowed on 8-6-1988. Hence this petition.

Learned counsel for the petitioners contended that the landlord when examined on oath by the trial Court never stated that he being a retired Government servant wanted the premises to start his business.

We don't find any force in the contention because the aforesaid fact was duly disclosed in the application filed by the respondents.

Moreover, there is another ground on which ejection has been ordered and that is subletting. This finding the learned counsel was unable to assail. Hence we don't think there is any point which needs consideration.

A.A./M-720/S

Petition dismissed.

1989 S.C.M.R. 8087

Present: Nasim Hasan Shah and Ghulam Mujaddid, JJ

MUHAMMAD ARSHAD SAEED--Petitioner

versus

PAKISTAN through Secretary, Establishment Division,
Rawalpindi--Respondent

Civil Petition No.428-R of 1988, decided on 18th December, 1988.

(On appeal from the judgment dated 30-7-1988 of the Federal Service Tribunal, Islamabad in Appeal No.149(R) of 1988).

Constitution of Pakistan (1973)--

---Arts.212(3) & 240--Civil Servants Act (LXX of 1973), Ss.2, 3 & 9--Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, R.8--Issuance of "promotion policies"--Effect--Matter of promotion made determinable now by "policies" instead of by Rules--Leave to appeal was granted to consider whether terms and conditions of service of persons, in service of Pakistan, can be regulated by "policy-guidelines" besides the Acts of Legislature and Statutory Rules framed thereunder, which question is of general public importance.

[p.810]A

Petitioner in person.

Nemo for Respondent.

Date of hearing: 18th December, 1988.

ORDER

NASIM HASAN SHAH, J.--The question that arises in this case is whether the terms & conditions of service of persons in the service of Pakistan can be regulated by the policy guidelines besides the Acts of the Legislature and the Statutory Rules framed thereunder, which question is indeed of general public importance.

According to Article 240 of the Constitution appointments to and the conditions of service of persons in the service of Pakistan shall be determined:

- (a) in the case of the services of the Federation, posts in connection with the affairs of the Federation and All-Pakistan Services, by or under Act of Majlis-e-Shoora (Parliament); and
- (b) in the case of the services of a Province and posts in connection with the affairs of a Province, by or under Act of the Provincial Assembly.

In pursuance of the above mandate, the Civil Servants Act, 1973, was promulgated on 26th September, 1973, to regulate the appointment of persons to, and the terms and conditions of service of persons in the service of Pakistan.

According to section 3 of this Act, "the terms and conditions of service of a civil servant shall be as provided in this Act and the rules". And section 9 of this Act provides that "a civil servant possessing such minimum qualification as may be prescribed shall be eligible for promotion to a higher post for the time being reserved under the rules for departmental promotion in the service or cadre to which he belongs". The term "prescribed" is defined in clause (f) of section 2 of the Act to mean "prescribed by rules". The relevant "rules" in this regard are the Civil Servants (Appointment, Promotion & Transfer) Rules, 1973". Rule 8 of these "rules" is relevant for our present purposes. It reads:

"8. Only such persons as possess the qualifications and meet the conditions laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Central Selection Board, as the case may be."

The case of the present petitioner is that by issuance of certain promotion policies, the matter of promotions has been made determinable by these policies instead of by the "rules" as is required by section 3 of the Civil Servants Act, 1973.

In this connection, the petitioner has drawn our attention to the memoranda issued by the Establishment Division on the subject of "Promotion Policy" and has submitted that the Promotion Policy suffers from a number of inconsistencies and elements of arbitrariness which were pointed out in the appeal before the Service Tribunal and also during the hearing. Even the A.C.R. form on which quantifications are based, lacks comprehensiveness, consistency and it has no mention of quantification. The column of outstanding carrying 10 marks is not printed on the form. Such policy cannot, it is claimed, to have been validly made under any law.

It is further submitted that promotions under section 9 of the Civil Servants Act are to be made on the basis of selection on merit and in the case of

non-selection posts on the basis of seniority-cum-fitness. Further under Rule 7 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, these are to be made on the recommendation of the Central Selection Board or the Departmental Promotion Committee. As such the Selection Authority as defined under section 2(i)(h) is the exclusive authority to consider and recommend promotions and no policies can be framed to limit the jurisdiction of the Selection Authority. It is argued that Promotion Policy, if allowed to continue affects the service conditions of the petitioner, is a source of legitimate concern not only to the petitioner but also to the entire community of civil servants. The frequency with which changes have been made in the policy clearly indicates that it is being manipulated and has potential for mala fide manipulation. The policy has eroded the inherent jurisdiction of the Departmental Promotion Committee/Central Selection Board which is the only legal and statutory "selecting authority" to make selections for promotions. These statutory authorities are required by the law to keep "such minimum conditions as are laid down under the rules" in mind while making selections and taking the so-called "ineligible" cases outside the purview of the consideration by the Departmental Promotion Committee or the Central Selection Board is against the law and rules. In fact, the promotion policy has taken the subject of selection virtually out of the purview of the Departmental Promotion Committee and the Central Selection Board who are now reduced to mere "rubber stamps".

According to the petitioner, the inherent power and jurisdiction of the Selection Board to assess the suitability of the officer from his overall performance remains unabridged under the law as held by the superior Courts. Policies cannot be allowed to narrow, limit or restrict this jurisdiction.

Moreover, since the "Selecting Authority" and the Civil Servant concerned have no means to know if the Quantification has been correctly and honestly worked out, total reliance on these figures worked out by some officials of the respondent cannot be lawfully placed and, therefore, the whole concept of Quantification becomes unreliable and vulnerable to manipulation. This being unjust cannot be lawful.

The above submissions, inter alia, require further consideration. Leave granted.

The appeal shall be made ready on the present record with liberty to the parties to add further documents, if any and put up for hearing on a very early date.

A.A./M-721/S

Leave to appeal granted.

1989 S C M R 810

*Present: Nasim Hasan Shah, Ghulam Mujaddid and
Usman Ali Shah, JJ*

MUHAMMAD HANIF--Appellant

versus

DEPUTY INSPECTOR-GENERAL OF POLICE
and another--Respondents

Civil Appeal No.38 of 1988, decided on 12th December, 1988.

Ann - R/A

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ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

(S) (23)

4-A. Training.--- On appointment to the post borne on the service in BS-17, whether by initial recruitment or by promotion, every officer so appointed shall successfully complete one and a half year's mandatory training including one year training at the Provincial Services Academy as per Module specified in Schedule-IV and six months training attachment as specified in Schedule-V. The training will be followed by Departmental Examination to be conducted by the Provincial Services Academy as specified in Schedule-VI.

5. Appointing Authority.---The Chief Minister, N.-W.F.P. shall be the appointing authority for posts borne on the Provincial Management Service specified in Schedule-I.]

6. Saving.---In all other matters not expressly provided for in these rules, the members of the Service shall be governed by the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and any other rules pertaining to terms and conditions of service made or deemed to have been made under the North-West Frontier Province Civil Servants Act, 1973 (N.-W.F.P. Act No. XVII of 1973).

7. Transitional: The condition of graduation as laid down in para 2(a) and (b) of column-5 against serial No. 1 of Schedule-I shall not apply for a period of seven years from the date of coming into force of these rules to the existing incumbents for promotion against BS-17 posts.

8. Repeal.---The North-West Frontier Province Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 shall stand repealed after the retirement of existing incumbents of both the cadres. Separate seniority list of both the cadres shall be maintained under the existing rules and they shall be promoted at the ratio of 50: 50.

[Provided that for the purpose of promotion of both the Secretariat Group and the Executive Group of the said service in different pay scales, -

- (i) the incumbents shall continue to be governed by the said service rules till the retirement of the last such incumbent; and
- (ii) the last incumbent of either Group shall rank senior to the first incumbent of the Provincial Management Service.]

SCHEDULE-I

S.No.	Nomenclature of posts	Minimum qualification for appointment by Initial recruitment	Age limit for Initial recruitment	Method of recruitment
1	2	3	4	5
1	PMS(BS-17) as per detail at Schedule-II	2 nd Division Bachelor Degree from a recognized	21-30 year	1) Fifty per cent by initial recruitment on the recommendations of the Commission based on the result of competitive examination to be

1. Rule 4-A added vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007
 2. Amended vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007

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	University.	<p>conducted by it in accordance with the provisions contained in Schedule - VII.</p> <p>2) Subject to rule 7, by promotion in the following manner:</p> <p>(a) twenty per cent from amongst Tehsildars, who are graduates, on the basis of seniority-cum-fitness, having five years service as Tehsildar and have passed the prescribed Departmental Examination; and</p> <p>(b) twenty per cent from amongst Superintendents /Private Secretaries on seniority-cum-fitness basis who are graduate and have undergone a training course of 9-weeks at the Provincial Management Academy/Provincial Staff Training Institute. A joint seniority list of the Superintendents and Private Secretaries shall be maintained for the purpose of promotion on the basis of their continuous regular appointment to the respective posts.</p> <p>3) Ten per cent by selection on merit, on the basis of competitive examination, to be conducted by the Commission in accordance with the provisions contained in Schedule-VII, from amongst persons holding substantive posts of Superintendents, Private Secretaries, Personal Assistants, Assistants, Senior Scale Stenographers, Stenographers, Data Entry Operators, Computer Operators, Senior and Junior Clerks who possess post graduate qualification from a recognized University and have atleast five years service under Government.</p>
2	PMS(BS-18) as per detail at Schedule-II	<p>NIL</p> <p>By promotion, on seniority-cum-fitness basis, from amongst the officers of PMS in BS-17 having at least five years service and have passed the prescribed Departmental Training or Departmental Examination.</p>
3	PMS(BS-19) as per detail at Schedule-II.	<p>NIL</p> <p>By promotion, on the basis of seniority-cum-fitness, from amongst PMS officers holding posts in BS-18 and having at least 12 years service against posts in BS-17 and above and have passed the prescribed Departmental Training/ Examinations.</p>

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...3-5/2007/(PMS)

1. The Word Schedule-IV replaced by Schedule VII vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007

2. The Word Schedule-IV replaced by Schedule VII vide Establishment Department Notification No. SOE-III(E&AD)3-5/2007/(PMS) Dated 12.11.2007