

Service Appeal No.636/2022 titled "Dil Jan -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No. 637/2022 titled "Rafaqat Ullah -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.638/2022 titled Saeed Ullah -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.639/2022 titled "Haq Nawaz -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.640/2022 titled "Qaiser Rehmani -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" and Service Appeal No.641/2022 titled "Muhammad Zeeshan Durrani -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" declared on 01.04.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR**

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**  
**RASHIDA BANO** ... **MEMBER(Judicial)**

***Service Appeal No.636/2022***

Date of presentation of Appeal.....27.04.2022  
Date of Hearing.....01.04.2024  
Date of Decision.....01.04.2024

**Dil Jan** S/O Jan Akbar, Computer Operator, Directorate of Public Safety Commission, Home Department, Peshawar.....**Appellant**

Versus

1. **Secretary to Government of Khyber Pakhtunkhwa**, Home and Tribal Affairs Department, Peshawar.
2. **Standing Service Rules Committee (SSRC)** through Chairman Provincial Safety Commission, Home Department, Peshawar.  
.....(**Respondents**)

***Service Appeal No.637/2022***

Date of presentation of Appeal.....27.04.2022  
Date of Hearing.....01.04.2024  
Date of Decision.....01.04.2024

**Rafaqit Ullah**, Computer Operator, Directorate of Public Safety Commission, Swabi.....**Appellant**

Versus

1. **Secretary to Government of Khyber Pakhtunkhwa**, Home and Tribal Affairs Department, Peshawar.
2. **Standing Service Rules Committee (SSRC)** through Chairman Provincial Safety Commission, Home Department, Peshawar.  
.....(**Respondents**)

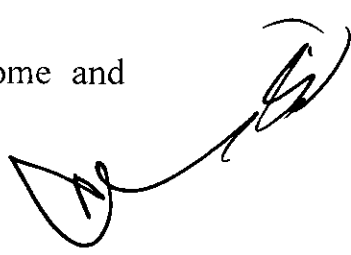
***Service Appeal No.638/2022***

Date of presentation of Appeal.....27.04.2022  
Date of Hearing.....01.04.2024  
Date of Decision.....01.04.2024

**Saeed Ullah** S/O Fazale Qamar, Computer Operator, Directorate of Public Safety Commission, Charsadda.....**Appellant**

Versus

1. **Secretary to Government of Khyber Pakhtunkhwa**, Home and Tribal Affairs Department, Peshawar.



Service Appeal No.636/2022 titled "Dil Jan -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No. 637,2022 titled "Rafiqat Ullah -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.638/2022 titled Saeed Ullah -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.639,2022 titled "Haq Nawaz -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.640/2022 titled "Qaiser Rehman -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" and Service Appeal No.641/2022 titled "Muhammad Zeeshan Durrani -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" declared on 01.04.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

2. **Standing Service Rules Committee (SSRC)** through Chairman Provincial Safety Commission, Home Department, Peshawar.  
.....(**Respondents**)

-----  
**Service Appeal No.639/2022**

Date of presentation of Appeal.....27.04.2022  
Date of Hearing.....01.04.2024  
Date of Decision.....01.04.2024

**Haq Nawaz S/O Sher Zaman**, Computer Operator, Directorate of Public Safety Commission, Abbottabad.....**Appellant**

Versus

1. **Secretary to Government of Khyber Pakhtunkhwa**, Home and Tribal Affairs Department, Peshawar.  
2. **Standing Service Rules Committee (SSRC)** through Chairman Provincial Safety Commission, Home Department, Peshawar.  
.....(**Respondents**)

-----  
**Service Appeal No.640/2022**

Date of presentation of Appeal.....27.04.2022  
Date of Hearing.....01.04.2024  
Date of Decision.....01.04.2024

**Qaser Rehman**, Computer Operator, Directorate of Public Safety Commission, Home Department, Peshawar.....**Appellant**

Versus

1. **Secretary to Government of Khyber Pakhtunkhwa**, Home and Tribal Affairs Department, Peshawar.  
2. **Standing Service Rules Committee (SSRC)** through Chairman Provincial Safety Commission, Home Department, Peshawar.  
.....(**Respondents**)

-----  
**Service Appeal No.641/2022**

Date of presentation of Appeal.....27.04.2022  
Date of Hearing.....01.04.2024  
Date of Decision.....01.04.2024

**Muhammad Zeeshan Durrani**, Computer Operator, Directorate of Public Safety Commission, Home Department, Peshawar.....**Appellant**

Versus



Service Appeal No.636/2022 titled "Dil Jan -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No. 637/2022 titled "Rajiqat Ullah -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No 638/2022 titled Saeed Ullah -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.639/2022 titled "Haq Nawaz -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.640/2022 titled "Qaiser Rehman -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" and Service Appeal No.641/2022 titled "Muhammad Zeeshan Durrani -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" declared on 01/04/2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

1. **Secretary to Government of Khyber Pakhtunkhwa, Home and Tribal Affairs Department, Peshawar.**
2. **Standing Service Rules Committee (SSRC) through Chairman Provincial Safety Commission, Home Department, Peshawar.**  
.....(**Respondents**)

Present:

Mr. Arbab Saiful Kamal, Advocate.....For the appellants  
Mr. Asif Masood Ali Shah, Deputy District Attorney ...For respondents

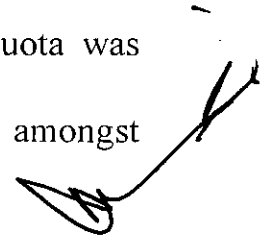
-----

**APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST OFFICE NOTIFICATION NO.E & A (HD) 10-10/2021 DATED 14.12.2021 OF R. NO. 01 WHEREBY POST OF SECRETARY B-17 WAS FIXED TO BE FILLED (I) 65% BY TRANSFER FROM AMONGST THE HOLDERS OF THE POST OF PMS OFFICERS B-17 AND (II) 35% BY PROMOTION ON THE BASIS OF SENIORITY CUM FITNESS AMONGST THE HOLDERS OF THE POSTS OF COMPUTER OPERATORS WITH AT LEAST SEVEN (07) YEAR SERVICE IN B-16 BY FIXING LESS QUOTA IN THE CATEGORY OF COMPUTER OPERATORS.**

**CONSOLIDATED JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Through this single judgment, all the appeals, titled above, are jointly taken up as all are similar in nature and almost with the same contentions, therefore, all can conveniently be decided together.

2. The appellants' cases in brief are that they were serving in the Khyber Pakhtunkhwa Public Safety Commission as Computer Operators; that the post of Computer Operator was upgraded from BPS-12 to BPS-16 in the year 2016; that vide impugned Notification dated 14.12.2021, for filling the post of Secretary (BPS-17), 65% quota was reserved for PMS Officers (by transfer) while 35% quota was reserved for promotion on the basis of seniority-cum-fitness amongst



*Service Appeal No.636/2022 titled "Dil Jan -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No. 637/2022 titled "Rafiqat Ullah -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.638/2022 titled Saeed Ullah -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.639/2022 titled "Haq Nawaz -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.640/2022 titled "Qaiser Rehman -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" and Service Appeal No.641/2022 titled "Muhammad Zeeshan Durrani -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" declared on 01.04.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.*

the holders of the posts of Computer Operators (having seven year service in BPS-16). Feeling aggrieved of the said Notification dated 14.12.2021, the appellants filed representations for enhancement of quota from 35% to 50% and reduction of service in BPS-16, to five years. The same representations were not responded, therefore, they filed the instant service appeals.

3. On receipt of the appeals and their admission to full hearing, the respondents were summoned, who put appearance and contested the appeals by filing written replies raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellants.

4. We have heard learned counsel for the appellants and learned Deputy District Attorney for the respondents.

5. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

6. The only ground before us is the alleged discrimination in fixing the quota for the appellants as according to the learned counsel for the appellants, for other posts in different departments, the promotion quota is either 100% or at least 50%, whereas, in the case of promotion to the post Secretary Provincial Safety Commission Khyber Pakhtunkhwa, the promotion quota for the Computer Operators was fixed as 35% on the basis of seniority-cum-fitness amongst the holders

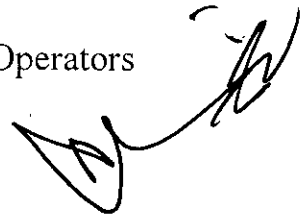


Service Appeal No.636/2022 titled "Dil Jan -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No. 637/2022 titled "Rafaqat Ullah -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.638/2022 titled Saeed Ullah -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.639/2022 titled "Haq Nawaz -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.640/2022 titled "Qaiser Rehman -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" and Service Appeal No.641/2022 titled "Muhammad Zoeshan Durrani -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" declared on 01.04.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

of posts of Computer Operators with at least seven year service in BPS-16. In the reply in "Ground-D" the respondents have contested the appeal in the following manner:

*"The service rules were made in the public interest and 35% quota for promotion to the incumbent computer operators was for the first time provided. Computer Operators are professionals of Information Technology and separate service structure and posts like DBA, ANA, AP, Web Developer requiring Masters Degrees in IT, like Programmers, Data Supervisors, Web Designer etc. however, the post of Secretary Public Safety Commission is a generalist cadre and a portion of 35% was justifiably prescribed for promotion to the post of Secretary Public Safety Commission in the public interest. No malice can be attributed to the framing of service rules."*

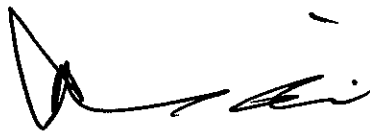
The above part of the reply undisputedly said that even 35% quota for promotion to the Computer Operators was provided for the first time and that was not previously provided. There is no denial to the fact that there can be a reasonable classification of the employees for the purpose of appointment or promotion. The concept of equality in the promotion can be predicated only when the promotions are drawn from the same source. It is mentioned in the above "Ground-D" that nature of job of the Secretary Public Safety Commission is generalist while Computer Operators are professionals of Information Technology and separate service structure and posts like DBA, ANA, AP, Web Developer requiring master degrees in IT, MCS, MIT, Software Engineering etc. are prescribed for promotion to posts like programmers, Data Supervisors, Web Designer, etc. therefore, a portion of 35% was justifiably allocated to the Computer Operators



*Service Appeal No.636/2022 titled "Dil Jan -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No. 637/2022 titled "Raftiqat Ullah -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.638/2022 titled Saeed Ullah -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.639/2022 titled "Haq Nawaz -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" Service Appeal No.640/2022 titled "Qaiser Rehman -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" and Service Appeal No.641/2022 titled "Muhammad Zeeshan Durrani -vs- Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar and others" declared on 01.04.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.*

because requirement of post of Secretary Public Safety Commission is not similar in nature and identical with other Departments i.e. Government of Khyber Pakhtunkhwa Establishment Department (Establishment Wing), Government of Khyber Pakhtunkhwa Establishment & Admn: Department (Regulation Wing), Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs & Human Rights Department and Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department. This equality of opportunity need not be confused with absolute equality as such. What is guaranteed, is the equality of opportunity and nothing more, which is justified from all other departments upon which the appellants relied. These appeals are thus groundless and are dismissed accordingly. Costs shall follow the event. Copy of this judgment be placed in the files of all the connected service appeals. Consign.

7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 1<sup>st</sup> day of April, 2024.*



**KALIM ARSHAD KHAN**  
Chairman




**RASHIDA BANO**  
Member (Judicial)

30.01.2024

Counsel for the appellant present. Mr. Asad Ali Khan,  
Assistant Advocate General for the respondents present.

Learned Member (Executive) Miss Fareeha Paul is on  
leave, therefore, bench is incomplete. To come up for arguments  
on 01.04.2024 before the D.B. PP given to the parties.

  
(SALAH-UD-DIN)  
Member (J)


\*Fazle Subhan, P.S\*

ORDER

1<sup>st</sup> Apr. 2024

1. Learned counsel for the appellant present. Mr. Asif Masood  
Ali Shah, Deputy District Attorney for the respondents present.
2. Vide our consolidated judgment of today placed on file,  
instant service appeal is dismissed. Costs shall follow the event.  
Copy of judgment be placed on files of all connected appeals.  
Consign.
3. *Pronounced in open Court at Peshawar and given under our  
hands and the seal of the Tribunal on this 1<sup>st</sup> day of April, 2024.*

  
(Rashida Bano)  
Member (J)

  
(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*