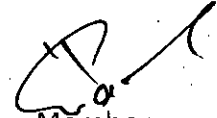


21.10.2019

Petitioner absent. Mr. Usman Ghani, District Attorney present. Mr. Irshadullah, Director (Legal) for the respondents present. Representative of respondents has submitted copy of notification No. S.O(Prosecution)HD/1-10/2019 dated 10.10.2019 and stated that as a result of the said notification the judgment dated 17.05.2016 of this Tribunal passed in Service Appeal No. 1228/2013 has been implemented in letter and spirit.

In view of the above the present execution petition is hereby consigned to record room being not pressed. No order as to costs.




Member
Camp court, A/Abad

ANNOUNCED

21.10.2019


21.02.2019

Petitioner in person present. Mr. Muhammad Bilal, Deputy District Attorney alongwith Mr. Arshad Ullah, Director Legal for the respondents present. Implementation report not submitted. Learned Deputy District Attorney requested for further adjournment. Last opportunity is granted to the respondents for filing of implementation report. Adjourned to 20.05.2019 for implementation report before S.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad


20.05.2019

Petitioner in person and Mr. Arshad Ullah, Director Legal alongwith Mr. Muhammad Bilal, Deputy District Attorney for the respondents present. Representative of the department stated at the bar that the implementation is in process and requested for adjournment. Adjourned to 19.08.2019 for implementation report before S.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

19.08.2019

Petitioner in person and Muhammad Irshad Director Legal representative of the respondent department present. Adjournment requested on the ground mentioned in the preceding order sheet. Adjourned for 21.10.2019 before S.B at Camp Court Abbottabad.


Member
Camp Court A/Abad

Execution Petition No. 116/2016
Shahzad Iqbal vs Govt

17.12.2018

Counsel for the petitioner present. Mr. Irshadullah, Director Prosecution alongwith Mr. Usman Ghani, District Attorney for respondents present.

The execution petition in hand was heard at length. As is evident from order sheet dated 22.06.2017 and 21.09.2017, respondents were still reluctant to implement the judgment of this Tribunal dated 17.05.2016. The main grievance of the petitioner is acting charge appointment to BPS-19 from the date when his juniors were allowed the same by the respondents. Plea of the respondents was that as the appellant was eligible for regular promotion, so his case for acting charge appointment in pursuance of aforementioned judgment of this Tribunal was not processed. Stance taken by the respondents was against the spirit of the said judgment. His juniors colleagues after getting acting charge appointment enjoy ^{ed} ~~the~~ perks and privileges of BPS-19 from 14.02.2013 notified on 17.05.2013, but the same were denied to the petitioner. It is strange that despite categoric directions of this Tribunal his case was not placed before the PSB for decision and the respondents acted on assumptions/presumptions.

Respondents are directed to place the case of the petitioner before the PSB as per directions contained in the aforementioned judgment 17.05.2016. Case to come up for implementation report on 21.02.2019 before S.B at camp court A/Abad.


Member
Camp court A/Abad

Shahzad Iqbal

v/s.

Chief Secretary KPK
and others

Put up to the court
with relevant Ex. Petition

Application for correction in order
dated 17-12-18

No.
Execution: 116/2016

Order
26/12/18.

Respectfully Sheweth.

- 1- That the titled execution petition is fixed for implementation report in which next date is $21 \frac{2}{19}$.
- 2- That the honorable Tribunal on previous date of hearing i.e on $17 \frac{12}{18}$ made direction to Director General prosecution KPK for implementation of Judgment dated $17 \frac{5}{16}$.
- 3- That the actual date of notification which was impugned by the petitioner is $14 \frac{2}{13}$ while in order it is inadvertently mentioned as $14 \frac{12}{13}$.
- 4- That it is in interest of justice to correct the date of impugned notification from $14 \frac{12}{13}$ to $14 \frac{2}{13}$.

It is therefore most humbly prayed that the date mentioned in order sheet may kindly be corrected from $14 \frac{12}{13}$ to $14 \frac{2}{13}$.

Petitioner

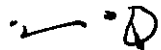


Dated: -26-12-18

Shahzad Iqbal.
DPP - Torpor.

19.09.2018

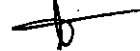
Petitioner absent. Mr. Usman Ghani learned District Attorney for respondents present. Respondent No.4 also present in person. Adjourned. To come up for further proceedings on 17.12.2018 before S.B at Camp Court A/Abad

 Member

Camp Court A/Abad


18.01.2018

Junior to counsel for the petitioner and Mr. Usman Ghani, District Attorney alongwith Mr. Irshadullah, Director Prosecution for respondents present. Junior to counsel for the petitioner seeks adjournment. Adjourned. To come up for further proceedings on 19.04.2018 before S.B at camp court Abbottabad.


(Ahmad Hassan)
Member (E)
Camp Court Abbottabad


19.04.2018

Clerk of counsel for the petitioner and Mr. Usman Ghani, District Attorney alongwith Irshadullah, Director (Legal) for the respondents present. Counsel for the petitioner seeks adjournment. Granted. To come up for further proceedings on 28.06.2018 before the S.B at camp court, Abbottabad.


Chairman
Camp court, A/Abad

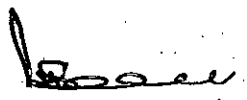
28.06.2018

Petitioner Shahzad Iqbal in person present. Mr. Atiq Ur Rehman, Dy: Director Prosecution alongwith Mr. Ziaullah, Deputy District Attorney for the respondents present. Petitioner made a request for adjournment that his counsel is not available today. Granted. Case to come up for arguments on 29.08.2018 before the S.B at camp court, Abbottabad.


Chairman
Camp court, A/Abad

28-8-18:-

petitioner in person called Bashir Ahmad D.P.P on behalf of respondents present. Due to summer vacation case to come up for the same on 19-9-2018, at camp court A/Abad.


Chairman

EP 116/2016

18.10.2017

Petitioner in person and Mr. Muhammad Bilal, Deputy District Attorney and Mr. Muhammad Irshadullah, Director Prosecution in person also present. Respondents seeks further adjournment. To come up for arguments on execution on 21.11.2017 before S.B at camp court, A/Abad.


Member

Camp court, A/Abad.

21.11.2017

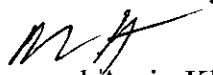
~~Petitioner along with counsel and Addl. CAG along with Atiqur Rahman, Deputy Director for the Respondents present. Learned counsel for the petitioner seeks adjournment. To come up for arguments on execution petition before SoBrat camp court, Abbottabad.~~


Chairman

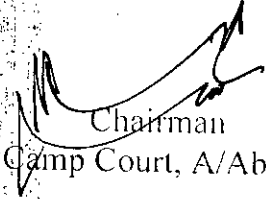
Camp court, Abbottabad.

20.12.2017

Petitioner along with his counsel present. Mr. Kabirullah Khattak, Additional AG along with Mr. Atiqur Rehman, Deputy Director for the respondents also present. Learned counsel for the petitioner seeks adjournment. Adjourned. To come up for arguments on execution petition on 18.01.2018 before S.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member (Judicial)
Camp Court Abbottabad

Consequently the respondent department is direct to implement the decision of the Tribunal in the light of the above mentioned observations. To come up for implementation report on 21.09.2017.


Chairman
Camp Court, A/Abad

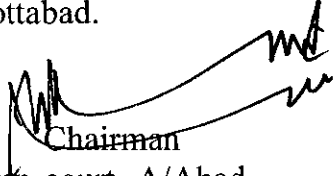
21.09.2017

Petitioner alongwith counsel and Mr. Muhammad Bilal, Deputy District Attorney alongwith Attiqur Rahman, Deputy Director for the respondents present. Implementation report submitted by the representative of the respondent department.

The learned counsel for the petitioner argued that the present implementation report is not in accordance with the judgment of this Tribunal as this report only gives promotion to the petitioner whereas the order of this Tribunal sought to be executed categorically directed the department to treat the petitioner alike with his three juniors. According to the learned counsel for the petitioner alike treatment can only be made if petitioner is promoted on acting charge basis alongwith his juniors and then he is paid salary for the said period.

On the other hand representative of the department is of the view that no such order can be made after regular promotion nor any pay can be released in such situation.

To come up for arguments on execution petition on 18.10.2017 before S.B at camp court, Abbottabad.


Chairman
Camp court, A/Abad.

EP

116/16

30.04.2017

Petitioner in person and Mr. Irshadullah, Director Prosecution alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Requested for adjournment. To come up for implementation report on 22.07.2017 before S.B at camp court, Abbottabad.


Chairman
Camp Court, Abbottabad.

8. 22.06.2017

Petitioner in person and Mr. Muhammad Bilal, DDA alongwith Atiqur Rahman, Deputy Director (Legal) for the respondents present. Representative of the respondents submitted a notification of the government dated 11.04.2017 where-under name of the petitioner is at S.No. 8. According to representative of the respondents the judgment of this Tribunal has been executed through the said notification. The petitioner submitted before the court that in fact his grievances were against the notification dated 14.02.2013 where-under 3 persons junior to him were promoted on acting charge basis. That he had filed departmental appeal against the said notification. That his appeal before this Tribunal was also filed against the said notification. That his appeal was accepted and this Tribunal directed the department to treat him at par with those who were junior to him and promoted on acting charge basis.

After hearing the parties and perusing the record it is clear that the grievances of the petitioner was against notification whereby 3 junior to him were promoted on acting charge basis. The appeal was also decided in the context of that very notification and the Tribunal directed the department to treat the petitioner alike with 3 juniors mentioned above. The notification which has been submitted to-day by the representative of the respondents does not serve the purpose as it is a notification of regular promotion of the petitioner alongwith others.



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Peshawar dated the 10th October 2019

NOTIFICATION

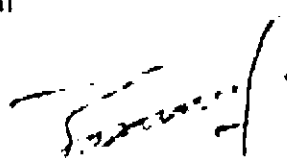
NO.SO (Prosecution) HD/1-10/2019/ The competent authority on the recommendations of the Provincial Selection Board, in its meeting held on 23-09-2019 and in light of the Khyber Pakhtunkhwa Service Tribunal Judgment dated 17-05-2016, is pleased to appoint Mr. Shahzad Iqbal as Senior Public Prosecutor, BS-19 on Acting Charge Basis w.e.f. 14-02-2017 to 10-04-2017.

SECRETARY
HOME DEPARTMENT

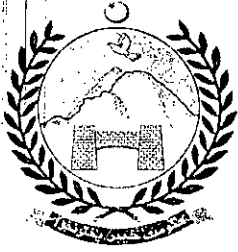
Endst: No. & date even

Copy forwarded to: -

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar
2. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department Peshawar.
3. The Director General Prosecution Khyber Pakhtunkhwa.
4. Regional Directors Prosecution, concerned.
5. District Public Prosecutor, concerned.
6. District Accounts Officer, concerned.
7. Officer Concerned.
8. P.S to Secretary Home & Tribal Affairs Department, Peshawar


Section Officer (Prosecution)

**IMMEDIATE
CONFIDENTIAL**



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

2623
3/10/19

NO. SO(PSB)ED/1-9/2019/P-54
Dated Peshawar, the 02.10.2019

To

The Secretary, Govt. of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

**SUBJECT: - MINUTES OF THE MEETING OF PROVINCIAL SELECTION BOARD
HELD ON 23.09.2019.**

**APPOINTMENT OF MR. SHAHZAD IQBAL AS SENIOR PUBLIC
PROSECUTOR BS-19 W.E.F. 14.02.2013 TO 10.04.2017 IN
PURSUANCE OF SERVICES TRIBUNAL JUDGMENT DATED
17.05.2016**

Dear Sir,

I am directed to refer to Home Department letter No. SO(Pros)/HD/1-10/2017/Vol-I dated 14.02.2019 on the subject and to forward herewith an extract of **Item No (23)** of the minutes/recommendations of the meeting of Provincial Selection Board held on **23.09.2019** as well as copy of approved summary wherein the Chief Minister, being competent authority in terms of Rule 4 (1) (a) of the Khyber Pakhtunkhwa (Appointment, Promotion & Transfer) Rules, 1989 has approved the recommendation of the PSB, for further necessary action.

Yours faithfully,

(Signature) 2/10/2019
(Abdul Hameed)
SECTION OFFICER (PSB)

Encl: As Above

ASCS, 3/10
D(CS)
SO (Prose)
3/10/19
from on file
awaz

HOME & TRIBAL AFFAIRS DEPARTMENT

(Meeting of PSB held on 23.09.2019)

SUBJECT: APPOINTMENT OF MR. SHAHZAD IQBAL TO THE POST OF SENIOR PUBLIC PROSECUTOR BS-19 ON ACTING CHARGE BASIS IN PURSUANCE OF SERVICE TRIBUNAL JUDGMENT DATED 17.05.2016 AND SUBSEQUENT ORDER DATED 17.12.2018.

Secretary Home & Tribal Affairs Department apprised the Board that the case of appointment of Mr. Shahzad Iqbal to the post of Senior Public Prosecutor BS-19 on acting charge basis was placed before the PSB in its meeting held on 14.12.2012. The Board did not recommend him for appointment to BS-19 on acting charge basis as an enquiry was pending against him.

2. Aggrieved of the recommendations of the Board, he filed an appeal in the Khyber Pakhtunkhwa Service Tribunal, which in its judgment dated 17.05.2016 directed to consider the appellant for alike treatment meted out to his junior colleagues irrespective of pending enquiry at the crucial date of acting charge promotion. The case was referred to Law Department for obtaining the advice for filing of CPLA in the Apex Court. However, the scrutiny committee of Law Department in its meeting held on 17.06.2016 declared the case unfit for filing of CPLA. Subsequently, the PSB in its meeting held on 24.03.2017 recommended him for promotion to the post of Senior Public Prosecutor BS-19 on regular basis, which was accordingly notified on 11.04.2017.

3. The officer once again approached the Service Tribunal for implementation of its judgment dated 17.05.2016. The Administrative Department placed before the Tribunal his Notification of promotion reflecting him as Senior Public Prosecutor BS-19 on regular basis. However, the Tribunal did not consider the prayer of the Department and pointed out that the stance taken by the respondents was against the spirit of the said judgment. His junior colleagues after getting acting charge appointment enjoyed perks and privileges of BS-19 from 14.02.2013 notified on 17.05.2013 but, the same were denied to the petitioner. Hence, the Tribunal directed to place the case of the petitioner before the PSB as per directions contained in the aforementioned judgment dated 17.05.2016 vide its order dated 17.12.2018.

4. The Administrative Department, upon approval of the scrutiny committee of the Law Department challenged the order of the Service Tribunal dated 17.12.2018 in the Supreme Court of Pakistan but, no status quo has been granted by the Court as yet. Therefore, in the absence of such order, the Tribunal may take adverse action against the Department on next date of hearing i.e. 19.08.2019.

5. In view of above, the Department has submitted the working paper for placement before the PSB for consideration of his appointment to BS-19 on acting charge basis from 14.02.2013 to 10.07.2017 in order to enable him to get financial benefits of that period in pursuance of Service Tribunal judgment dated 17.05.2016 and subsequent order dated 17.12.2018.

6. The Board thoroughly discussed the case of the appellant and recommended his appointment as Senior Public Prosecutor BS-19 on acting charge basis w.e.f. 14.02.2013 in light of the Service Tribunal judgment dated 17.05.2016.

Attested
[Signature]
 Section Officer (PSB)
 Govt. of Khyber Pakhtunkhwa
 Establishment Department

**IMMEDIATE
CONFIDENTIAL**



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

2623
63/10/19

NO. SO(PSB)ED/1-9/2019/P-54
Dated Peshawar, the 02.10.2019

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

**SUBJECT: - MINUTES OF THE MEETING OF PROVINCIAL SELECTION BOARD
HELD ON 23.09.2019.**

**APPOINTMENT OF MR. SHAHZAD IQBAL AS SENIOR PUBLIC
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PURSUANCE OF SERVICES TRIBUNAL JUDGMENT DATED
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[Signature] 2/10/19
(Abdul Hameed)
SECTION OFFICER (PSB)

Encl: As Above

ASCS, 3/10
D(CS)

SO (Prose)
3/10/19
[Signature] 3/10/19
[Signature] 3/10/19

HOME & TRIBAL AFFAIRS DEPARTMENT

(Meeting of PSB held on 23.09.2019)

SUBJECT: APPOINTMENT OF MR. SHAHZAD IQBAL TO THE POST OF SENIOR PUBLIC PROSECUTOR BS-19 ON ACTING CHARGE BASIS IN PURSUANCE OF SERVICE TRIBUNAL JUDGMENT DATED 17.05.2016 AND SUBSEQUENT ORDER DATED 17.12.2018.

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4. The Administrative Department, upon approval of the scrutiny committee of the Law Department challenged the order of the Service Tribunal dated 17.12.2018 in the Supreme Court of Pakistan but, no status quo has been granted by the Court as yet. Therefore, in the absence of such order, the Tribunal may take adverse action against the Department on next date of hearing i.e. 19.08.2019.

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Attested
[Signature]
Section Officer (PSB)
Govt. of Khyber Pakhtunkhwa
Establishment Department

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Peshawar dated the 10th October 2019



NOTIFICATION

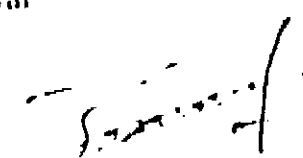
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SECRETARY
HOME DEPARTMENT

Endst: No. & date even

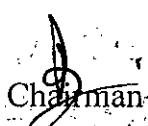
Copy forwarded to: -

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar
2. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department Peshawar.
3. The Director General Prosecution Khyber Pakhtunkhwa.
4. Regional Directors Prosecution, concerned.
5. District Public Prosecutor, concerned.
6. District Accounts Officer, concerned.
7. Officer Concerned.
8. P.S to Secretary Home & Tribal Affairs Department, Peshawar


Section Officer (Prosecution)

22.12.2016

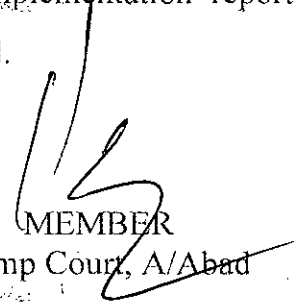
Petitioner with counsel and Mr. Liaqat Ali, DPP alongwith Mr. Muhammad Siddique Sr:GP for the respondents present. Requested for adjournment. Last opportunity granted. In case the judgment is not implemented then further coercive measures till be taken against the respondents. To come up for implementation report on 16.02.2016, before S.B at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

22.2.21

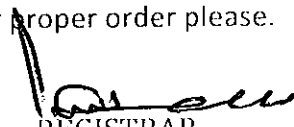



16.02.2017

Petitioner in person and Mr. Liaqat Ali, Dy. Director (Legal) alongwith Mr. Muhammad Siddique Sr.GP for the respondents present. Representative of the respondents submitted before the court that working papers regarding promotion of petitioner alongwith other officials prepared and the case is pending before the PSB. Official respondents are directed to expedite the matter and submit implementation report on the next date. Case is adjourned to 20.04.2017 for implementation report before S.B at camp court, Abbottabad.


MEMBER
Camp Court, A/Abad

FORM OF ORDER SHEET

Execution Petition No. 116/2016

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 25.07.2016 | <p>The Execution Petition of Mr. Shahzad Iqbal submitted to-day by Haji Sabir Hussain Tanoli Advocate may be entered in the relevant Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2 | 18.08.2016 | <p>This Execution Petition be put up before Touring S. Bench at A.Abad on <u>18.8.16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Petitioner with counsel present: Notices be issued to the respondents. To come up for implementation report on 20.10.2016 before S.B at camp court, Abbottabad.</p> <p style="text-align: right;"> Chairman Camp court, A/Abad.</p> |
| | 20.10.2016 | <p>Petitioner in person and Mr. Irshadullah, Deputy Director alongwith Mr. Muhammad Siddique Sr.GP for the respondents present. Requested for adjournment. To come up for implementation report on 22.12.2016 before S.B at camp court, Abbottabad.</p> <p style="text-align: right;"> Chairman Camp Court, A/Abad</p> |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Execution Petition No. 116/16 C.M No. _____ /2016

Shahzad Iqbal Public Prosecutor Abbottabad

...PETITIONER

VERSUS

Chief Secretary, Khyber Pakhtunkhwa, Peshawar and others

...RESPONDENTS

APPLICATION FOR IMPLEMENTATION OF JUDGMENT

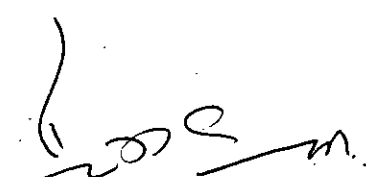
INDEX

| S.No. | Description of Document | Annexure | Page No. |
|-------|--|----------|----------|
| 1. | Application alongwith verification and affidavit | -- | 1-3 |
| 2. | Attested copy, of judgment dated 17.05.2016 | "A" | 4-6 |
| 3. | Copy of application to respondents | "B" | 7-9 |
| 4. | Vakalat Nama | -- | 10 |

...PETITIONER

Through:

Dated:- _____ /2016


(HAJI SABIR HUSSAIN TANOLI)
Advocate Supreme Court of Pakistan,
Abbottabad.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Execution Petition No. 116/2016 C.M No. 12016

Shahzad Iqbal Public Prosecutor Abbottabad

...PETITIONER

V E R S U S

- 1) Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
- 2) Secretary, Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa, Peshawar.
- 3) Director General Prosecution, Khyber Pakhtunkhwa, Peshawar..
- 4) Director Legal Prosecution, Directorate of Prosecution, Khyber Pakhtunkhwa, Peshawar.

...RESPONDENTS

**APPLICATION FOR IMPLEMENTATION OF
JUDGMENT / ORDER DATED 17.05.2016 IN SERVICE
APPEAL NO.1228/2013 TITLED "SHAHZAD IQBAL VS
CHIEF SECRETARY KPK AND OTHERS".**

Respectfully Sheweth,

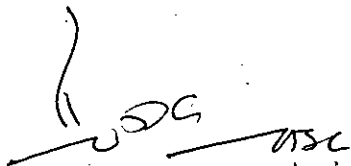
1. That, the petitioner / appellant filed an appeal before this Honourable Tribunal bearing No.1228 of 2013.
2. That, this Honourable Tribunal had allowed the appeal of the appellant / petitioner on 17.05.2016.
(Attested copy of judgment dated 17.05.2016 is annexed as Annexure "A")

3. That, the petitioner submitted an application for implementation of judgment of this Honourable Tribunal through proper channel on 01.06.2016 to respondents alongwith attested copy of judgment of this Honourable Tribunal. **(Copy of application is annexed as Annexure "B")**
4. That, no implementation of the judgment of this Honourable Tribunal is made by the respondents so far, hence the instant application for implementation of judgment of this Honourable Tribunal.

It is, therefore, most humbly prayed that respondents may kindly be directed to implement the judgment of this Honourable Tribunal and matters ancillary thereto. Any other relief which this Honourable Tribunal deem fit and proper may also be granted by the respondents.


...PETITIONER

Through:


(HAJI SABIR HUSSAIN TANOLI)
Advocate Supreme Court of Pakistan,
Abbottabad.

Dated:- _____/2016

VERIFICATION:-

*Verified that the contents of the instant **application** are true and correct to the best of my knowledge and belief and that nothing material has been suppressed from this Honorable Court.*

Dated:- _____/2016


...PETITIONER

BEFORE THE KHYBER PAKHTUN KHWA SERVICE
TRIBUNAL, PESHAWAR

Shahzad Iqbal Public Prosecutor Abbottabad

... PETITIONER

VERSUS

Chief Secretary, Khyber Pakhtunkhwa, Peshawar and others

.... RESPONDENTS

APPLICATION FOR IMPLEMENTATION

AFFIDAVIT

I, Shahzad Iqbal Public Prosecutor, Abbottabad, do hereby solemnly affirm and declare on Oath that the contents of forgoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this hon'ble Tribunal.


Identified By

DEPONENT

(Haji Sabir Hussain Tañoli)
Advocate Supreme Court of Pakistan,
Abbottabad



21 / 7 / 2016

| S.No. of proceedings | Date of Order or proceedings. | Order or other proceedings with signature of Judge or Members and that of parties where necessary. |
|----------------------|-------------------------------|---|
| 1 | 2 | 3 |
| | 17.05.2016 | <div data-bbox="1141 331 1452 624" style="text-align: right;">  </div> <p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>CAMP COURT ABBOTTABAD</u> <u>APPEAL NO. 1228/2013</u> <u>Shahzad Iqbal Versus Chief Secretary, Khyber Pakhtunkhwa, Peshawar and others.</u></p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Appellant with counsel and Mr. Muhammad Siddique, Senior Government Pleader alongwith Liaqat Ali, Deputy Director (Legal) for official respondents present.</p> <p>2. Shahzad Iqbal Public Prosecutor hereinafter referred to as the appellant has preferred the instant appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against impugned order dated 12.07.2013 vide which departmental appeal of the appellant against the original impugned notification dated 14.02.2013 was rejected.</p> <p>3. Brief facts of the case of appellant are that the appellant was appointed as Additional Public Prosecutor in BS- 17 on 04.04.2003 and promoted to BS-18 on 18.12.2008. That his name was enlisted in the seniority list at S.No. 11 while those of private respondents No. 6 to 8 enlisted at S.No. 12 to 14 but the appellant ignored at the time of acting charge promotion despite his seniority and the said private respondents promoted to BS- 19 vide impugned notification dated 14.02.2013.</p> |

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

constraining the appellant to prefer departmental appeal followed by the instant service appeal.

4. Learned counsel for the appellant argued that the appellant was initially subjected to departmental enquiry and minor penalty in the shape of censure and stoppage of 2 increments was awarded which was finally challenged before this Tribunal and vide judgment dated 21.06.2011 this Tribunal directed the competent authority for passing fresh order after serving the appellant with a fresh show cause notice in the light of recommendations of the enquiry committee. That the enquiry was purposely delayed and made basis for deferment of appellant and putting the private respondents in advantageous position for a fault and negligence not attributed to appellant.

5. Learned Sr. Government Pleader argued that case of the appellant could not be processed as enquiry was not completed which stood completed vide office order dated 30.05.2013 and minor penalty in the shape of censure was awarded to the accused officer/appellant. He further argued that the appellant has been considered and recommended to P.S.B for promotion and as such the case of the appellant for promotion to BS-19 is in process.

6. We have heard arguments of learned counsel for the parties and perused the record.

7. It was not disputed before us that the penalty of censure cannot be considered a hurdle in promotion of an officer. No doubt the enquiry was pending against the appellant at the time of acting charge promotion of private respondents No. 6 to 8 to BS-19 but the delay in

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

conclusion of the said enquiry was not found attributable to the appellant and, above all, the said enquiry culminated in the shape of punishment of censure issued to the appellant vide order dated 30.05.2013 which is not a hurdle in considering the case of the appellant for promotion to BS-19.

8. In view of the above the appeal is accepted and it is directed that the respondents shall consider the case of the appellant for alike treatment meted out to his junior colleagues irrespective of pendency of enquiry at the crucial date of acting charge promotion. Parties are left to bear their own costs. File be consigned to the record room.

Sd Member

Sd Chairman

ANNOUNCEMENT
17.05.2016

Certified to be true copy
[Signature]
MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 25-5-16
Number of Words 1200
Copying Fee 8--
Urgent 2--
Total 10--
Name of Copyist Haris
Date of Copying 25-5-16
Date of Delivery of Copy 25-5-16

Annexure B

7



The
District Prosecution
Abbottabad

No: 1121 /2016/DPP/ATD

Dated Abbottabad June 1, 2016

Phone & Fax # 9310383

Email: dppatd@gmail.com,
dppatd@hotmail.com

To

The Director General Prosecution
Home & Tribal Affairs Department
Khyber Pakhtunkhwa
Peshawar.

Subject: REQUEST FOR IMPLEMENTATION OF JUDGMENT/ORDER IN
SERVICE APPEAL NO. 1228/2013 DECIDED ON 17.05.2016

Dear Sir

I have the honor to enclose herewith application of Mr. Shahzad Iqbal Public Prosecutor Abbottabad on the subject above alongwith its enclosure for further necessary action at your end please.

Faithfully Yours

Shahzad Iqbal CP

[Signature]

District Public Prosecutor
Abbottabad

To

The Chief Secretary Government of
Khyber Pakhtunkhwa
Peshawar.

Through Proper Channel

Subject: REQUEST FOR IMPLEMENTATION OF JUDGMENT/ORDER
IN SERVICE APPEAL NO. 1228/2013 DECIDED ON
17.05.2016

Dear Sir

I have the honor to submit as under:-

1. That the petitioner was in the seniority list of Public Prosecutors BPS-18 at serial No. 11, but at the time of promotion on acting charge basis, the petitioner was deferred.
2. That the juniors from the petitioner were promoted on acting charge basis who at that time were at serial No. 12, 17 and 18.
3. That the petitioner preferred the departmental appeal, but the department ignored the said representation on the reason that the petitioner was under inquiry.
4. That feeling aggrieved the petitioner approach Khyber Pakhtunkhwa Service Tribunal vide appeal No. 1228/2013, which was decided in favor of petitioner on 17.05.2013, whereby the petitioner was considered for alike treatment meted out to his junior Prosecutors with all back benefits w.e.f 14.02.2013 i.e from the date of impugned notification of the promotion.
(Copy of judgment/order dated 17.05.2013 is enclosed herewith for ready reference).

9

It is, therefore, humbly request, that in the light of abovementioned circumstances the judgment/order dated 17.05.2016 of honorable KPK Service Tribunal may kindly be implemented, so that the petitioners may be saved from further mental agony and litigations and obliged please.

Faithfully Yours



Shahzad Iqbal
Public Prosecutor
Abbottabad

In the Court of Khyber Pakhtunkhwa Service Tribunal, Peshawar.

WAKALATNAMA

In Re _____ of 2016


Shehzad Iqbal Public Prosecutor Abbottabad
VERSUS

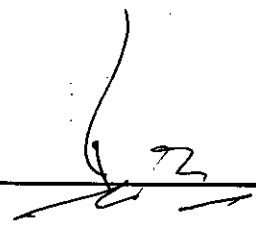
Chief Secretary, KPK, Peshawar & others.

BY THIS POWER OF ATTORNEY, I, WE Shehzad Iqbal

The above titled case do hereby constitute and the appoint **Haji Sabir Hussain Tanoli** **ADVOCATE SUPREME COURT OF PAKISTAN, ABBOTTABAD** as my / our **ATTORNEY** on my / our behalf to appear, act and plead and do all lawful acts and things in connection with the said case, to sign, verify, file or withdraw all proceeding, petitions, appeals, affidavit and application for the compromise or withdrawal or for submission to arbitration of the said case to withdraw and receive documents and any money payable to me / us during course or on the conclusion of proceeding and to sign proper receipts, to engage or appoint any other advocate when he thinks proper.

And hereby agree to ratify whatever the Advocate do in the proceedings that the shall be entitled to withdraw from the prosecution of the case if the whole or any part of the agreed fee remain unpaid. Read over and accepted correct by me / us this _____ day of _____ 20 ____.


Signature of Executant (s)



Accepted subject to terms mentioned above:
Haji Sabir Hussain Tanoli
Advocate Supreme Court of Pakistan, Abbottabad

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT ABBOTTABAD**

EXECUTION PETITION NO.116/2016

SHAHZAD IQBAL PETITIONER

VERSUS

THE CHIEF SECRETARY, KHYBER PAKHTUNKHWA & OTHERS

..... RESPONDENTS

**JOINT PARAWISE COMMENTS ON BEHALF OF
RESPONDENTS NO.1 TO 4**

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the present petition is not maintainable in the eye of law.
2. That the petitioner has got no cause of action.
3. That the petitioner has got no locus standi to file the petition in hand.
4. That Petitioner has not come to this Honourable Court with clean hands.
5. That the petitioner has concealed material facts from this Honourable Tribunal.
6. That the petitioner is estopped by his own conduct to bring the present petition before this Honourable Tribunal.
7. That the petition is bad for mis-joinder and non-joinder of necessary parties.

PARAWISE REPLY:-

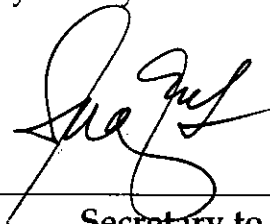
1. Para No.1 needs no comments.
2. Para No.2 is correct.
3. Para No.3 is correct to the extent that the petitioner submitted application for implementation of the judgment and the same was received by respondent No.3 on 07-06-2016. It is pertinent to mention here that the petitioner alongwith other Public Prosecutors of BPS-18 filed a writ petition No.811-P/2015 in the Honourable Peshawar High Court, Peshawar for their up-gradation and the same was accepted by the Honourable

Peshawar High Court, Peshawar vide judgment dated 07-06-2016 (Annexure-A). In compliance with the judgment of Peshawar High Court, Peshawar case was taken up with the Finance Department for up gradation of the Public Prosecutors from BPS-18 to 19. Meeting of the up-gradation committee at Finance Department was held on 21-11-2016 and the decision of the Peshawar High Court, Peshawar mentioned above was taken into consideration and recommended their case from BPS-18 to 19 and the notification regarding upgradation will be issued shortly.

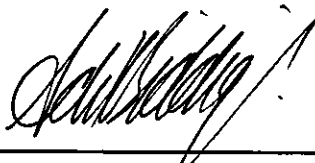
4. Para No.4 is incorrect. As mentioned at para No.3 that the up gradation of the petitioner from BPS-18 to 19 has been recommended by the up gradation committee of the Finance Department in line with the judgment of the Peshawar High Court, Peshawar. It is worth to mention here that some of the Public Prosecutors of BPS-18 have challenged the final seniority list and the issue is pending in the office of respondent No.1 being the competent authority to decide the objection filed by the Public Prosecutors. Moreover, as the petitioner has been up graded to BPS-19, so the instant petition becomes infructuous.

PRAYER:

In the wake of above submissions the petition of petitioner is devoid of merit and legal footing, may kindly be dismissed being infructuous.



Secretary to Govt.
Khyber Pakhtunkhwa
Home & TAs Department
Respondent No. 1 and for Respondent 2



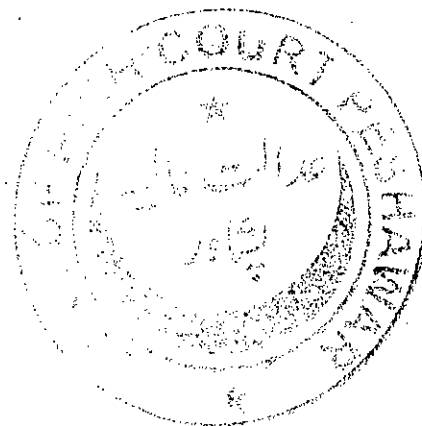
Director General Prosecution
Khyber Pakhtunkhwa
Respondent No. 3



Director Legal Prosecution
Directorate of Prosecution
Khyber Pakhtunkhwa
Respondent No.4

IN THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 811-P /2015



1. **Zafar Abbas Mirza**
Assistant Director Administration/Finance (Public Prosecutor)
Directorate of Prosecution,
Govt. of Khyber Pakhtunkhwa, Peshawar
2. **Muhammad Zulfiqar Ali**
Public Prosecutor
Anti-Terrorism Court, Peshawar.
3. **Muhammad Ayub**
Public Prosecutor
Anti-Terrorism Court, Bannu.
4. **Saqib Sultan Jadoon**
Public Prosecutor
Mansehra
5. **Muhammad Irshad**
Public Prosecutor
Anti-Terrorism Court, Mardan
6. **Irshad Ullah Afridi**
Public Prosecutor
Directorate of Prosecution, Peshawar
7. **Bashir Muhammad**
Public Prosecutor
Abbottabad
8. **Muhammad Khaliid**
Public Prosecutor
Court of Anti-Corruption, Peshawar.
9. **Liaqat Ali**
Public Prosecutor
Directorate of Prosecution, Peshawar

FILED TODAY

Deputy Registrar

11 MAR 2015

ATTESTED

EXAMINER
Peshawar High Court

21 JUN 2016

10. Raza Khan
Public Prosecutor
Anti-Terrorism Court,
Swat

11. Nisar Alam
Public Prosecutor
Swat

12. Atta-ur-Rehman
Public Prosecutor
Peshawar

13. Abdul Hameed
Public Prosecutor
Anti-Terrorism Court,
Abbotabad

14. RastBaz Khan
Public Prosecutor
Bannu

15. Shehzad Iqbal
Public Prosecutor
Abbottabad

16. Anwar Ali
Public Prosecutor
Bunner

.....PETITIONERS

VERSUS

1. **Government of Khyber Pakhtunkhwa**
Through Chief Secretary,
Peshawar

2. **The Secretary**
Home & Tribal Affairs Department,
Civil Secretariat, Peshawar

3. **Finance Department**
Govt. of Khyber Pakhtunkhwa
Through Secretary Finance, Civil Secretariat, Peshawar.

~~FILED TODAY~~
~~Deputy Registrar~~
11 MAR 2015

APPROVED
Peshawar
11 MAR 2015

Judgment.
BEFORE PESHAWAR HIGH COURT,
PESHAWAR.

Judicial Department.

Writ Petition 811-P of 2015

Zafar Abbas Mirza & others.....Petitioners.

Vs

Govt. of Khyber Pakhtunkhwa and others.....Respondents.

Date of hearing.....7th June, 2016.....

Petitioner(s) by.....*Qazi Jawad Qasimullah Furushi - Advocate.*

Respondent(s) by.....*Maqsood-ud-din Humayun ADU.*

WAQAR AHMAD SETH, J:- For the reasons recorded

in connected writ petition bearing No. 110-P of 2015, this writ
petition is allowed.

Writ allowed with 5% cost
to the petitioner & 5% to the respondent.

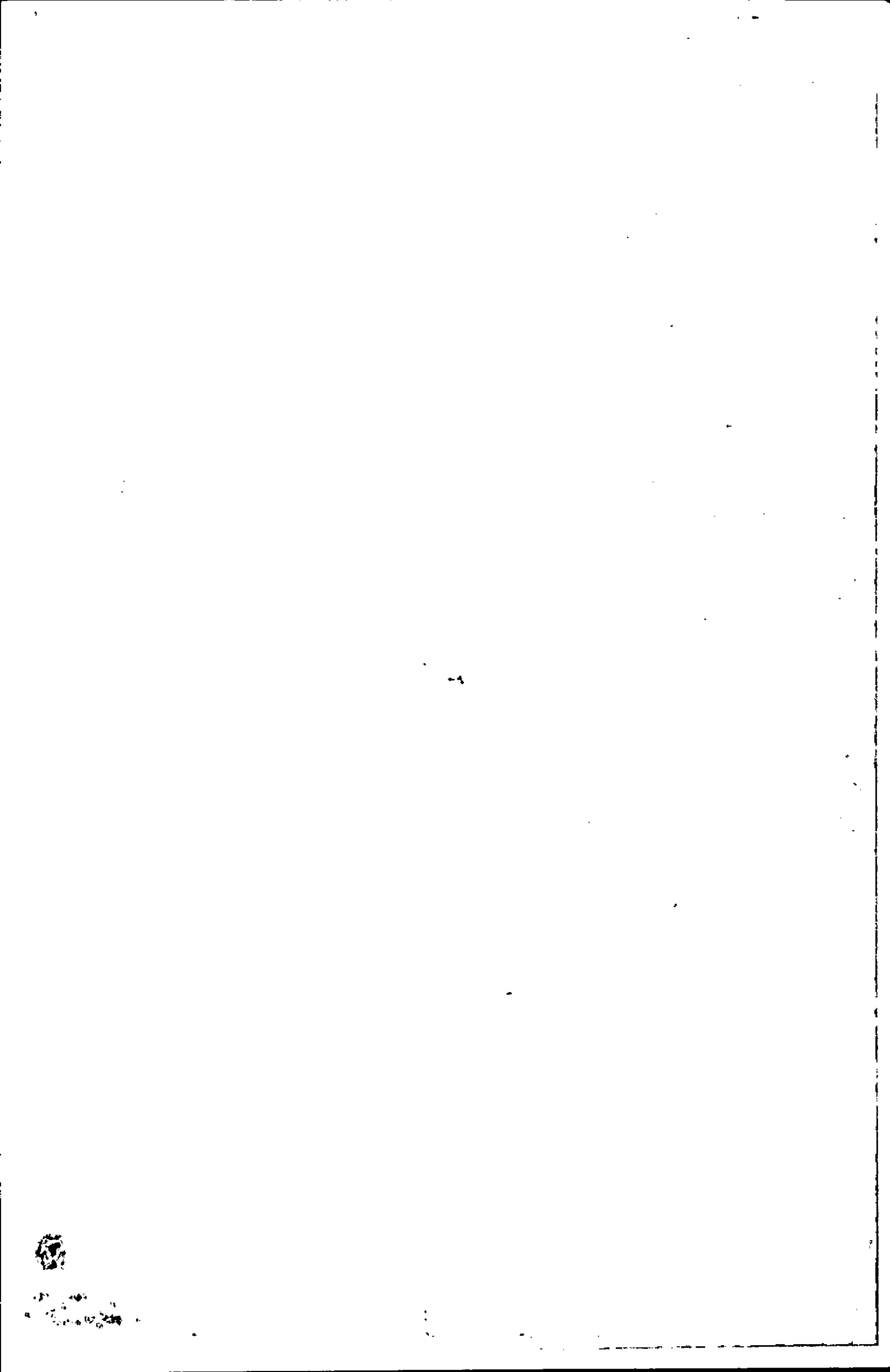
Announced.
7th June, 2016
Tariq Jan.

ATTESTED

EXAMINER
Peshawar High Court

21 JUN 2016

Tariq Jan
7/5/16



Judgment.
BEFORE PESHAWAR HIGH COURT,
PESHAWAR.

Judicial Department.

Writ Petition 110-P of 2015

Mian Aziz Ahmad & others.....Petitioners.

Vs

Govt. of Khyber Pakhtunkhwa and others.....Respondents.

Date of hearing.....7th June, 2016.....

Petitioner(s) by *Jehanzeb Mehsood - Q. - Abdul Aziz Ajaz*

Respondent(s) by *M. Azeemuddin Humayun AAG*

WAQAR AHMAD SETH, J:- Through this single

judgment we intend to dispose of the instant writ petition as well as connected writ petition No. 811-P of 2015, as common question of law and facts are involved therein.

2. Mian Aziz Ahmad & 10 others, hereinafter called the petitioners, have invoked the constitutional jurisdiction of this Court, under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the prayer to declare the notification dated 15.12.2014, as illegal, without lawful authority; restrain the respondents from changing the nomenclature of Assistant Public Prosecutor to Deputy Public

Prosecutor; direct the respondents to upgrade the post of Deputy Public Prosecutor to BPS-18 like others already upgraded in other Provinces; whereas in the connected WP No. 811-P of 2015, filed by Public Prosecutors are seeking up-gradation from BPS-18 to BPS-19.

3. Facts, in brief, relevant for the disposal of this writ petition are that, petitioners who were appointed as Deputy Public Prosecutor in BPS-17 are performing their duties since 2010 and are seeking up-gradation of their post to PBS-18 on the analogy that the post of Deputy Public Prosecutor has been up-graded in other Provinces since, 2004/2007 and they are being discriminated. It is averred that the post of Additional Government Pleader / Government Pleader, similar in function and qualification to petitioners has been upgraded from BPS-17 to 18/19. Further averred that through writ petition No. 241 of 2011 this Court while accepting the writ petition directed the respondents to upgrade the post of Assistant Public Prosecutor from BPS-16 to BPS-17 which was upgraded vide notification dated 11-11-2014; that despite CM / complaint before Human Right Cell, constitution of committee and constant assurance for redressal of the grievance, but to no avail, hence, having no



other efficacious and alternate remedy petitioners have filed the instant writ petition.

4. Comments were called from respondents which they furnished and denied the assertion of petitioners and stated that the post of Assistant Public Prosecutor BS-16 was upgraded to BPS-17 on the direction of this Court; that the judgment referred to is past and closed transaction and the same has no relevancy with the present writ petition, moreover, the officers benefited by the said judgment have also not been arrayed as party in the writ petition. That the Directorate of Prosecution has already processed a case of up-gradation of officers from BPS-17 to BPS-18 and from BPS-18 to BPS-19 and shortly a high level committee, in Establishment Department constituted under the Chairmanship of Chief Secretary, Khyber Pakhtunkhwa, notified for the purpose and will decide the up-gradation.

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

6. At the very outset learned counsel for petitioners abandoned his claim regarding the declaration that letter dated 15.12.2014 be declared as illegal, without lawful authority and

ATTESTED

EXAMINER
Peshawar High Court

7.11.2014

corum non iudice, confined his arguments only to the extent of upgradation of the post of Deputy Public Prosecutor to BS-18 as similarly placed Additional Government Pleader / Government Pleader in Khyber Pakhtunkhwa and similarly placed Prosecutors in other three Provinces have already been upgraded. In view of which the CM No. 231-P of 2015 filed on behalf of beneficiary of order dated 15.12.2014 have become in fructuous and as such disposed of.

7. Petitioners who are posted as Deputy Public Prosecutors in various district of the province are seeking up gradation of their post from BPS-17 to 18 as they were initially appointed in BPS-17 in the year 2010 as Deputy Public Prosecutors, whereas, Assistant Public Prosecutors of their department, who were appointed in BPS-16, after the acceptance of their writ petition No. 241-A of 2011 vide judgment dated 21.11.2013 have been upgraded to BPS-17 and presently both the cadres i.e their cadre of Deputy Public Prosecutor and that of Assistant Public Prosecutor are in one and the same grade.

8. Record suggests that Additional Government Pleader / Government Pleaders who are having the same

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2015

qualification and are performing their functions exactly that of petitioners, while representing the Provincial Government in civil cases have been upgraded to BPS-18 & 19. Record further suggestive that Prosecutor / Deputy District Attorneys in BPS-17 in the Province of Punjab have been upgraded to BPS-18 since 2004 and in the Provinces of Sindh and Baluchistan they have been upgraded to BS-18 in the year 2007. The stance of respondents / government is that they have constituted a Committee to resolve the issue of up gradation of the post of Deputy Public Prosecutor, but since then till today the discriminatory treatment milted out to the petitioners has not been rectified, inspite of the fact that this Court in WP No. 241/2011 decided on 21.11.2013 has dilated upon the core issues which are involved in the present case, as well.

9. Article-38 (e) of the Constitution of Islamic Republic of Pakistan 1973, reads as under:-

“Reduce disparity in the income and earnings of individuals including person in the various classes or the service of Pakistan”.

10. We have before us, order No. SO (Prosecution) / HD / 1-10 / 2009 / Vol-V dated 3.8.2009 whereby sanctioned of

the Provincial Government has been accorded to the up gradation of the posts of Directorate of Prosecution Khyber Pakhtunkhwa, with immediate effect and at serial No. 11, 14 posts of Deputy Public Prosecutors to be re-designated as Public Prosecutor from BPS-17 to BPS-18 and even that notification has not been implemented to the extent of petitioners inspite of the fact that the said order to the extent of certain employees have been implemented, as such law of locus poenitentiae would come into play. At present it seems that Assistant Public Prosecutors are also in BPS-17 and petitioners being Deputy Public Prosecutors are also in the same grade which would create great anomaly within their ranks. The qualification and nature of job when compared / equated with other three provinces would justify the claim of petitioner for up gradation to BPS-18 as Deputy Public Prosecutor. Moreover, the constitution of Islamic Republic of Pakistan, 1973, in its article 2, 3, 25, 37 & 38 (e) in particular unequivocally guarantees that equal pay for equal work with no discrimination. The notification dated 5.8.2009 notified one step up-gradation but since then there is no order in practical neither there is anything on record showing that said notification dated 5.8.2009 has been withdrawn or rescinded.

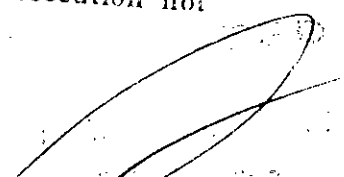
ATTESTED
EXAMINER
Provincial High Court

The employees of law department who are performing almost similar duties in civil side have been upgraded on 9.8.2012 whereas petitioners have been denied the equal treatment.

11. The concerned department of the respondents prepared working papers for up-gradation of all the existing posts of the prosecutors in BPS-17 and 18, one step, which are reproduced below and confirmed that they are entitled to one step up-gradation but the government lacks the courage to pass an order in time.

"Prosecution is the main plank in the chain of Criminal Justice System. Effective prosecution links up investigation by the Police with justice delivery by the judiciary and it is the Prosecution which is involved with the criminal justice from the time when a crime is committed to the moment of final verdict delivered and eve therefore. It is the prosecution who assails the decisions in the superior courts if not made in conformity with the provision of law. It supervises the process of investigation, gives opinions to the investigation agencies, issue guidelines for quality investigation, prosecutes criminal in the courts, leads witnesses, produces case laws in support of the prosecution version, assists the courts etc. Thus the job of the prosecution in the criminal justice system is parental and supervisor in nature.

With a vibrant prosecution services, the government has channel to counter check all the information pertaining to crimes and crime trends provided by the police. Effective prosecution not



only improves quality of investigation by supervising the process as per the Khyber Pakhtunkhwa, Prosecution services (Constitution, Function and Powers) Act, 2005, but also acts as a filter to weed out weak cases at an early stage which on one side reduces burden on courts and improves conviction rate on the other side.

In a very short span of time the prosecution has recommended thousand of weak cases for discharge, thus the burden upon the courts is reduced on one hand, whereas the other hand, the innocent are protected from the agony of trials. Further in the preceding years, the conviction ratio in the province has considerably been increased not only in the cases before the courts of session or Magistrate but also in the Anti Terrorism cases.

Similarly the cases registered under Anti Terrorism Act 1997 the ratio of conviction has also been improved. To evaluate the performance of the Prosecution a Monitoring Cell is established which vigilantly supervises the operational activities of the prosecution. The information regarding criminal cases is shared with different agencies including the Superior Courts, Provincial government, Donors etc. Further a Reference & Research Cell is also working in the Directorate of Prosecution for the research of the latest case laws supporting the cause of the prosecution and amendments in the statutes.

In the year 2003 the prosecution in Khyber Pakhtunkhwa have conducted the prosecution of more than 100 thousand cases wherein as discussed above, the conviction ratio can be matched with the prosecution service of the Developed Countries.

In the year 2009 the Provincial Government of Khyber Pakhtunkhwa vide notification No. SO (Prosecution) HD/ 1-10/2009/Vol-V dated 5.8.2009, upgraded certain posts of the prosecutors, but



without incumbents, thus, none of the prosecutors was benefitted from the same. In 2011 after 2- years of up-gradation those prosecutors who became otherwise eligible for regular promotions i.e completing length of service, seniority, PERs etc, their cases for regular promotions were sent to BPS for consideration, thus the Criteria for regular promotion was opted. Those who were found eligible for regular promotion their cases were considered for promotion and they were promoted on regular basis.

The provincial Government of Khyber Pakhtunkhwa, has upgraded all posts of District Judiciary twicely. Likewise, in the other three provinces of the country the posts of prosecutors have been upgraded on step. The prosecutors working in different part of the country whose posts have been upgraded one step are having similar qualification and job descriptions with that of the prosecutors working in this province. The Notification of the up gradation of the sister provinces as discussed above are appended.

In the year 2004 vide notification dated 27.9.2004, the provincial government has detached the directorate of Prosecution form law department and placed the same under the administrative control of Home Department as its attached department.

Recently, the Government of the Khyber Pakhtunkhwa, has upgraded al post of Government Pleaders and additional Government pleaders one step vide notification No. E&A (LD)17-17/AGP(II)/2012 dated 9.8.2012. Pertinent to highlight that most of the upgraded Government Pleaders either have worked in subordination to majority of the Prosecutors or were their juniors when the prosecution was the subject of the law



department. Further, by the up gradation those Government Pleaders are not in higher ranks than that of those who were earlier their superiors in the law department. The up gradation policy 2010, paragraph III (i) & (ii) provides the following.

III. Up-gradation of post proposed on grounds of principles of parity.

“While processing the cases were the proponent department seeks up gradation of certain posts to a higher pay scale on the analogy of similar posts in some other departments in this province created with same nomenclature the committee shall take into account following parameters;

- i) *Ascertainment of full details about all such posts created with same nomenclature by any other department in addition to those departments whose analogy has been quoted by proponent department.*
- ii) *Nomenclature shall not be the sole criterion for determining parity / comparability of posts. Other details i.e the job description and prescribed qualification would necessarily be examined.*

The prosecutors in the province are having the similar qualification with that of the Government Pleaders. Their job is also to defend the cause of the Government in the courts. The duties assigned to the Prosecution are rather more challengeable / demanding.

The total number of posts in PBS-17 required to be upgraded being 42 whereas, in BS-18 the number of such posts being 39.

12. The Assistant Public Prosecutors writ petition was allowed by this Court, in which exactly similar discrimination and entitlement, but from BS-16 to 17 was dealt with, whereas in the instant case exactly same reasons and justification, the claim of Deputy Public Prosecutors from BPS-17 to 18 has been made. While allowing the writ petition of Assistant Public Prosecutors was held verbatim as under:-

The Court could not be asked to presume that there must be some undisclosed or unknown reasons for subjecting certain individuals to discriminatory treatment, for in that case courts would be making a travesty of the fundamental right of equality before law enshrined in Article 25 of the Constitution. No doubt, State is not prohibited in treat its citizens on the basis of Article 25 of the Constitution that every citizen is to be treated alike in all circumstances, however, it would be applicable on the persons similarly placed or similarly situated. Reliance in this respect is placed on Lordmark Judgment of I.A Sherwani Vs Government of Pakistan reported as 1991 SCMR 1041.

Under Article 38 of the Constitution the Government would secure will being of the people by raising their standard of living and by ensuring equitable adjustment or rights between the employers and employees and provide for all citizens within available resources of country facilities for works and adequate livelihood and reduce disparity in income and earnings of individuals.

ATTESTED

EXAMINER
Peshawar High Court

27 JUN 2016

In the case of Government of Baluchistan through Additional Chief Secretary Home Quetta Vs. Azizullah Memo and another reported in NLR 1993 SCJ 527 it was held as under:-

Art. 25. Equal Protection of law forbids class legislation but permits reasonable classification for purpose of legislation. Permissible classification is allowed by Art. 25 provided classification is founded on intelligible differentia which distinguishes persons or things that are grouped together from others who are left out of groups. Such classification and differentia must be in a rational relation to the object sought to be achieved by legislation. There should be a nexus between classification and objects of legislation. This principle symbolizes that persons or thing similarly situated cannot be distinguished or discriminated while making or applying law. It has to be applied equally to persons situated similarly and in same situation. Any law made or action taken in violation of these principles shall be liable to be struck down as violative of Art. 25. Law clothes any statutory authority or functionary with unguided and arbitrary power enabling it to administer it in a discriminatory manner, such law would violate equality clause of Art. 25. Substantive and procedural law and action taken under it can be challenged as violative of Arts. 8, 25 on ground of absence of reasonable classification.

The policy of up-gradation of the province is not in line with the legal requirement nor there exists any reasonable classification for not allowing BS-17 to the petitioners, thus it is held that petitioners are discriminated. The writ petition is allowed and respondents are directed to upgrade the post of Assistant Public Prosecutor from BPS-16 to BPS-17 w.e.f 2010.

13. Indeed, anomaly has cropped up in the sense that Assistant Public Prosecutor have been upgraded to BPS-17 vide

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the Court order whereas petitioners being Deputy Public Prosecutors are also in BPS-17 and since in other three provinces the post of Deputy Public Prosecutors has already been upgraded to BPS-18 and petitioners are performing their duties exactly as is done by the Deputy Public Prosecutor in other three provinces therefore, on the analogy of similarly placed employees with no reasonable element of reasonable classification the petitioners are also entitled for up-gradation to BPS-18.

14. In view of above this writ petition as well as the connected writ petition are allowed. Respondents are directed to issue the notification of petitioners in BPS-18 as Deputy Public Prosecutor and petitioners of connected writ petition in BPS-19 as Public Prosecutors, with immediate effect.

Announced.
7th June, 2016
Tariq Jan.

SP Waqar Ahmad Sethi - J
SP Qaiser Rashid Khan - J

JUDGE

JUDGE

CERTIFIED TO BE TRUE COPY

Secretary
Peshawar High Court, Peshawar
Authorised by Section 87 of
The Oath-taking Act, 1984

21 JUN 2016

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M. - P. G. Sethi

15/6/16

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT ABBOTTABAD**

EXECUTION PETITION NO.116/2016

SHAHZAD IQBAL PETITIONER

VERSUS

THE CHIEF SECRETARY, KHYBER PAKHTUNKHWA & OTHERS

..... RESPONDENTS


**JOINT PARAWISE COMMENTS ON BEHALF OF
RESPONDENTS NO.1 TO 4**

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the present petition is not maintainable in the eye of law.
2. That the petitioner has got no cause of action.
3. That the petitioner has got no locus standi to file the petition in hand.
4. That Petitioner has not come to this Honourable Court with clean hands.
5. That the petitioner has concealed material facts from this Honourable Tribunal.
6. That the petitioner is estopped by his own conduct to bring the present petition before this Honourable Tribunal.
7. That the petition is bad for mis-joinder and non-joinder of necessary parties.

PARAWISE REPLY:-

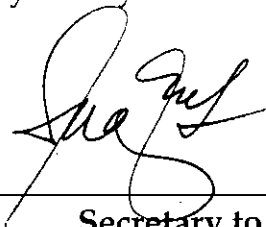
1. Para No.1 needs no comments.
 2. Para No.2 is correct.
 3. Para No.3 is correct to the extent that the petitioner submitted application for implementation of the judgment and the same was received by respondent No.3 on 07-06-2016. It is pertinent to mention here that the petitioner alongwith other Public Prosecutors of BPS-18 filed a writ petition No.811-P/2015 in the Honourable Peshawar High Court, Peshawar for their up-gradation and the same was accepted by the Honourable
- 

Peshawar High Court, Peshawar vide judgment dated 07-06-2016 (Annexure-A). In compliance with the judgment of Peshawar High Court, Peshawar case was taken up with the Finance Department for up gradation of the Public Prosecutors from BPS-18 to 19. Meeting of the up-gradation committee at Finance Department was held on 21-11-2016 and the decision of the Peshawar High Court, Peshawar mentioned above was taken into consideration and recommended their case from BPS-18 to 19 and the notification regarding upgradation will be issued shortly.

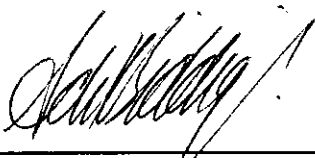
4. Para No.4 is incorrect. As mentioned at para No.3 that the up gradation of the petitioner from BPS-18 to 19 has been recommended by the up gradation committee of the Finance Department in line with the judgment of the Peshawar High Court, Peshawar. It is worth to mention here that some of the Public Prosecutors of BPS-18 have challenged the final seniority list and the issue is pending in the office of respondent No.1 being the competent authority to decide the objection filed by the Public Prosecutors. Moreover, as the petitioner has been up graded to BPS-19, so the instant petition becomes infructuous.

PRAYER:

In the wake of above submissions the petition of petitioner is devoid of merit and legal footing, may kindly be dismissed being infructuous.



Secretary to Govt.
Khyber Pakhtunkhwa
Home & TAs Department
Respondent No. 1 and for Respondent 2



Director General Prosecution
Khyber Pakhtunkhwa
Respondent No. 3

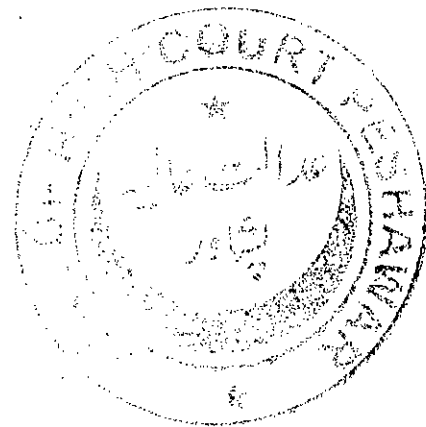


Director Legal Prosecution
Directorate of Prosecution
Khyber Pakhtunkhwa
Respondent No.4

Annexure-A

IN THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 811-P /2015



1. **Zafar Abbas Mirza**
Assistant Director Administration/Finance (Public Prosecutor)
Directorate of Prosecution,
Govt. of Khyber Pakhtunkhwa, Peshawar
2. **Muhammad Zulfiqar Ali**
Public Prosecutor
Anti-Terrorism Court, Peshawar.
3. **Muhammad Ayub**
Public Prosecutor
Anti-Terrorism Court, Bannu.
4. **Saqib Sultan Jadoon**
Public Prosecutor
Mansehra
5. **Muhammad Irshad**
Public Prosecutor
Anti-Terrorism Court, Mardan
6. **Irshad Ullah Afridi**
Public Prosecutor
Directorate of Prosecution, Peshawar
7. **Bashir Muhammad**
Public Prosecutor
Abbottabad
8. **Muhammad Khaid**
Public Prosecutor
Court of Anti-Corruption, Peshawar.
9. **Liaqat Ali**
Public Prosecutor
Directorate of Prosecution, Peshawar

FILED TODAY

Deputy Registrar

11 MAR 2015

ATTESTED

EXAMINER
Peshawar High Court

21 JUN 2015

10. Raza Khan
Public Prosecutor
Anti-Terrorism Court
Swat

11. Nisar Alam
Public Prosecutor
Swat

12. Atta-ur-Rehman
Public Prosecutor
Peshawar

13. Abdul Hameed
Public Prosecutor
Anti-Terrorism Court,
Abbotabad

14. RastBaz Khan
Public Prosecutor
Bannu

15. Shehzad Iqbal
Public Prosecutor
Abbottabad

16. Anwar Ali
Public Prosecutor
Bunner

.....PETITIONERS

VERSUS

1. **Government of Khyber PakhtunKhwa**
Through Chief Secretary,
Peshawar
2. **The Secretary**
Home & Tribal Affairs Department,
Civil Secretariat, Peshawar
3. **Finance Department**
Govt. of Khyber Pakhtunkhwa
Through Secretary Finance, Civil Secretariat, Peshawar.

~~FILED TODAY~~
~~Deputy Registrar~~
11 MAR 2015

APPROVED
11 MAR 2015

Judgment.
BEFORE PESHAWAR HIGH COURT,
PESHAWAR.

Judicial Department.

Writ Petition 811-P of 2015

Zafar Abbas Mirza & others.....Petitioners.

Vs

Govt. of Khyber Pakhtunkhwa and others.....Respondents.

Date of hearing.....7th June, 2016.....

Petitioner(s) by.....*Qazi Jawad Qasimullah Qureshi - Advocate.*

Respondent(s) by.....*Naem-ud-din Humayun ADU.*

WAQAR AHMAD SETH, J:- For the reasons recorded

in connected writ petition bearing No. 110-P of 2015, this writ
petition is allowed.

Waqar Ahmad Seth J
in favour of Petitioner

Announced,
7th June, 2016
Tariq Jan.

ATTESTED
EXAMINER
Peshawar High Court
21 JUN 2016

Tariq
7/5/16

Judgment.
BEFORE PESHAWAR HIGH COURT,
PESHAWAR.

Judicial Department.

Writ Petition 110-P of 2015

Mian Aziz Ahmad & others.....Petitioners.

Vs

Govt. of Khyber Pakhtunkhwa and others.....Respondents.

Date of hearing.....7th June, 2016.....

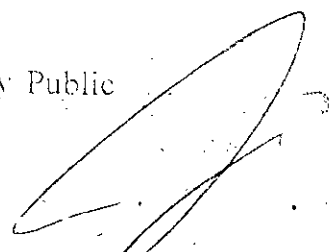
Petitioner(s) by *Jehanzeb Mehsood - G. - Abdul Aziz Ajvide*

Respondent(s) by *M. Azeemuddin Humayun. AAG. A. Hussain*

WAQAR AHMAD SETH, J:- Through this single

judgment we intend to dispose of the instant writ petition as well as connected writ petition No. 811-P of 2015, as common question of law and facts are involved therein.

2. Mian Aziz Ahmad & 10 others, hereinafter called the petitioners, have invoked the constitutional jurisdiction of this Court, under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the prayer to declare the notification dated 15.12.2014, as illegal, without lawful authority; restrain the respondents from changing the nomenclature of Assistant Public Prosecutor to Deputy Public



Prosecutor; direct the respondents to upgrade the post of Deputy Public Prosecutor to BPS-18 like others already upgraded in other Provinces; whereas in the connected WP No. 811-P of 2015, filed by Public Prosecutors are seeking up-gradation from BPS-18 to BPS-19.

3. Facts, in brief, relevant for the disposal of this writ petition are that, petitioners who were appointed as Deputy Public Prosecutor in BPS-17 are performing their duties since 2010 and are seeking up-gradation of their post to PBS-18 on the analogy that the post of Deputy Public Prosecutor has been up-graded in other Provinces since, 2004/2007 and they are being discriminated. It is averred that the post of Additional Government Pleader / Government Pleader, similar in function and qualification to petitioners has been upgraded from BPS-17 to 18/19. Further averred that through writ petition No. 241 of 2011 this Court while accepting the writ petition directed the respondents to upgrade the post of Assistant Public Prosecutor from BPS-16 to BPS-17 which was upgraded vide notification dated 11-11-2014; that despite CM / complaint before Human Right Cell, constitution of committee and constant assurance for redressal of the grie. has, but to no avail, hence, having no



other efficacious and alternate remedy petitioners have filed the instant writ petition.

4. Comments were called from respondents which they furnished and denied the assertion of petitioners and stated that the post of Assistant Public Prosecutor BS-16 was upgraded to BPS-17 on the direction of this Court; that the judgment referred to is past and closed transaction and the same has no relevancy with the present writ petition, moreover, the officers benefited by the said judgment have also not been arrayed as party in the writ petition. That the Directorate of Prosecution has already processed a case of up-gradation of officers from BPS-17 to BPS-18 and from BPS-18 to BPS-19 and shortly a high level committee, in Establishment Department constituted under the Chairmanship of Chief Secretary, Khyber Pakhtunkhwa, notified for the purpose and will decide the up-gradation.

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

6. At the very outset learned counsel for petitioners abandoned his claim regarding the declaration that letter dated 15.12.2014 be declared as illegal, without lawful authority and

ATTESTED

EXAMINER
People's Rights Coun

11/12/2014

corum non iudice, confined his arguments only to the extent of upgradation of the post of Deputy Public Prosecutor to BS-18 as similarly placed Additional Government Pleader / Government Pleader in Khyber Pakhtunkhwa and similarly placed Prosecutors in other three Provinces have already been upgraded. In view of which the CM No. 231-P of 2015 filed on behalf of beneficiary of order dated 15.12.2014 have become in fruituous and as such disposed of.

7. Petitioners who are posted as Deputy Public Prosecutors in various district of the province are seeking up gradation of their post from BPS-17 to 18 as they were initially appointed in BPS-17 in the year 2010 as Deputy Public Prosecutors, whereas, Assistant Public Prosecutors of their department, who were appointed in BPS-16, after the acceptance of their writ petition No. 241-A of 2011 vide judgment dated 21.11.2013 have been upgraded to BPS-17 and presently both the cadres i.e their cadre of Deputy Public Prosecutor and that of Assistant Public Prosecutor are in one and the same grade.

8. Record suggests that Additional Government Pleader / Government Pleaders who are having the same

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15/12/2015

2015

qualification and are performing their functions exactly that of petitioners, while representing the Provincial Government in civil cases have been upgraded to BPS-18 & 19. Record further suggestive that Prosecutor / Deputy District Attorneys in BPS-17 in the Province of Punjab have been upgraded to BPS-18 since 2004 and in the Provinces of Sindh and Baluchistan they have been upgraded to BS-18 in the year 2007. The stance of respondents / government is that they have constituted a Committee to resolve the issue of up gradation of the post of Deputy Public Prosecutor, but since then till today the discriminatory treatment milted out to the petitioners has not been rectified, inspite of the fact that this Court in WP No. 241/2011 decided on 21.11.2013 has dilated upon the core issues which are involved in the present case, as well.

9. Article-38 (e) of the Constitution of Islamic Republic of Pakistan 1973, reads as under:-

“Reduce disparity in the income and earnings of individuals including person in the various classes or the service of Pakistan”.

10. We have before us, order No. SO (Prosecution) / HD / 1-10 / 2009 / Vol-V dated 3.8.2009 whereby sanctioned of

the Provincial Government has been accorded to the up gradation of the posts of Directorate of Prosecution Khyber Pakhtunkhwa, with immediate effect and at serial No. 11, 14 posts of Deputy Public Prosecutors to be re-designated as Public Prosecutor from BPS-17 to BPS-18 and even that notification has not been implemented to the extent of petitioners inspite of the fact that the said order to the extent of certain employees have been implemented, as such law of locus poenitentiae would come into play. At present it seems that Assistant Public Prosecutors are also in BPS-17 and petitioners being Deputy Public Prosecutors are also in the same grade which would create great anomaly within their ranks. The qualification and nature of job when compared / equated with other three provinces would justify the claim of petitioner for up gradation to BPS-18 as Deputy Public Prosecutor. Moreover, the constitution of Islamic Republic of Pakistan, 1973, in its article 2, 3, 25, 37 & 38 (e) in particular unequivocally guarantees that equal pay for equal work with no discrimination. The notification dated 5.8.2009 notified one step up-gradation but since then there is no order in practical neither there is anything on record showing that said notification dated 5.8.2009 has been withdrawn or rescinded.

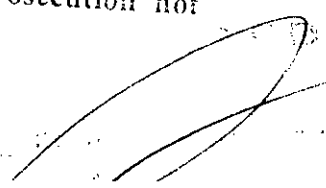
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EXAMINER
Peshawar High Court

The employees of law department who are performing almost similar duties in civil side have been upgraded on 9.8.2012 whereas petitioners have been denied the equal treatment.

11. The concerned department of the respondents prepared working papers for up-gradation of all the existing posts of the prosecutors in BPS-17 and 18, one step, which are reproduced below and confirmed that they are entitled to one step up-gradation but the government lacks the courage to pass an order in time.

“Prosecution is the main plank in the chain of Criminal Justice System. Effective prosecution links up investigation by the Police with justice delivery by the judiciary and it is the Prosecution which is involved with the criminal justice from the time when a crime is committed to the moment of final verdict delivered and eve therefore. It is the prosecution who assails the decisions in the superior courts if not made in conformity with the provision of law. It supervises the process of investigation, gives opinions to the investigation agencies, issue guidelines for quality investigation, prosecutes criminal in the courts, leads witnesses, produces case laws in support of the prosecution version, assists the courts etc. Thus the job of the prosecution in the criminal justice system is parental and supervisor in nature.

With a vibrant prosecution services, the government has channel to counter check all the information pertaining to crimes and crime trends provided by the police. Effective prosecution not



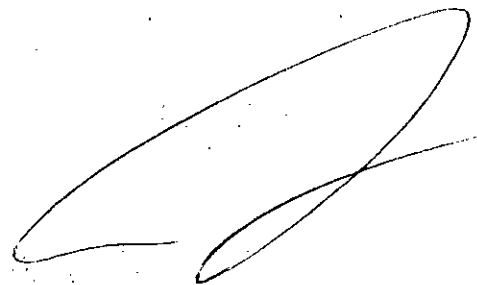
only improves quality of investigation by supervising the process as per the Khyber Pakhtunkhwa, Prosecution services (Constitution, Function and Powers) Act, 2005, but also acts as a filter to weed out weak cases at an early stage which on one side reduces burden on courts and improves conviction rate on the other side.

In a very short span of time the prosecution has recommended thousand of weak cases for discharge, thus the burden upon the courts is reduced on one hand, whereas the other hand, the innocent are protected from the agony of trials. Further in the preceding years, the conviction ratio in the province has considerably been increased not only in the cases before the courts of session or Magistrate but also in the Anti Terrorism cases.

Similarly the cases registered under Anti Terrorism Act 1997 the ratio of conviction has also been improved. To evaluate the performance of the Prosecution a Monitoring Cell is established which vigilantly supervises the operational activities of the prosecution. The information regarding criminal cases is shared with different agencies including the Superior Courts, Provincial government, Donors etc. Further a Reference & Research Cell is also working in the Directorate of Prosecution for the research of the latest case laws supporting the cause of the prosecution and amendments in the statutes.

In the year 2003 the prosecution in Khyber Pakhtunkhwa have conducted the prosecution of more than 100 thousand cases wherein as discussed above, the conviction ratio can be matched with the prosecution service of the Developed Countries.

In the year 2009 the Provincial Government of Khyber Pakhtunkhwa vide notification No. SO (Prosecution) HD/ 1-10/2009/Vol-V dated 5.8.2009, upgraded certain posts of the prosecutors, but



without incumbents, thus, none of the prosecutors was benefitted from the same. In 2011 after 2- years of up-gradation those prosecutors who became otherwise eligible for regular promotions i.e completing length of service, seniority, PERs etc, their cases for regular promotions were sent to BPS for consideration, thus the Criteria for regular promotion was opted. Those who were found eligible for regular promotion their cases were considered for promotion and they were promoted on regular basis.

The provincial Government of Khyber Pakhtunkhwa, has upgraded all posts of District Judiciary twicely. Likewise, in the other three provinces of the country the posts of prosecutors have been upgraded on step. The prosecutors working in different part of the country whose posts have been upgraded one step are having similar qualification and job descriptions with that of the prosecutors working in this province. The Notification of the up gradation of the sister provinces as discussed above are appended.

In the year 2004 vide notification dated 27.9.2004, the provincial government has detached the directorate of Prosecution form law department and placed the same under the administrative control of Home Department as its attached department.

Recently, the Government of the Khyber Pakhtunkhwa, has upgraded al post of Government Pleaders and additional Government pleaders one step vide notification No. E&A (LD)17-17/AGP(II)/2012 dated 9.8.2012. Pertinent to highlight that most of the upgraded Government Pleaders either have worked in subordination to majority of the Prosecutors or were their juniors when the prosecution was the subject of the law



department. Further, by the up gradation those Government Pleaders are not in higher ranks than that of those who were earlier their superiors in the law department. The up gradation policy 2010, paragraph III (i) & (ii) provides the following.

III. Up-gradation of post proposed on grounds of principles of parity.

“While processing the cases where the proponent department seeks up gradation of certain posts to a higher pay scale on the analogy of similar posts in some other departments in this province created with same nomenclature the committee shall take into account following parameters;

- i) *Ascertainment of full details about all such posts created with same nomenclature by any other department in addition to those departments whose analogy has been quoted by proponent department.*
- ii) *Nomenclature shall not be the sole criterion for determining parity / comparability of posts. Other details i.e the job description and prescribed qualification would necessarily be examined.*

The prosecutors in the province are having the similar qualification with that of the Government Pleaders. Their job is also to defend the cause of the Government in the courts. The duties assigned to the Prosecution are rather more challengeable / demanding.

The total number of posts in PBS-17 required to be upgraded being 42 whereas, in BS-18 the number of such posts being 39.

12. The Assistant Public Prosecutors writ petition was allowed by this Court, in which exactly similar discrimination and entitlement, but from BS-16 to 17 was dealt with, whereas in the instant case exactly same reasons and justification, the claim of Deputy Public Prosecutors from BPS-17 to 18 has been made. While allowing the writ petition of Assistant Public Prosecutors was held verbatim as under:-

The Court could not be asked to presume that there must be some undisclosed or unknown reasons for subjecting certain individuals to discriminatory treatment, for in that case courts would be making a travesty of the fundamental right of equality before law enshrined in Article 25 of the Constitution. No doubt, State is not prohibited in treat its citizens on the basis of Article 25 of the Constitution that every citizen is to be treated alike in all circumstances, however, it would be applicable on the persons similarly placed or similarly situated. Reliance in this respect is placed on Lordmark Judgment of I.A Sherwani Vs Government of Pakistan reported as 1991 SCMR 1041.

Under Article 38 of the Constitution the Government would secure well being of the people by raising their standard of living and by ensuring equitable adjustment or rights between the employers and employees and provide for all citizens within available resources of country facilities for works and adequate livelihood and reduce disparity in income and earnings of individuals.

ATTESTED

EXAMINED
Per [Signature] Court

27 JUN 2016

In the case of Government of Baluchistan through Additional Chief Secretary Home Quetta Vs. Azizullah Memo and another reported in NLR 1993 SCJ 527 it was held as under:-

Art. 25. Equal Protection of law forbids class legislation but permits reasonable classification for purpose of legislation. Permissible classification is allowed by Art. 25 provided classification is founded on intelligible differentia which distinguishes persons or things that are grouped together from others who are left out of groups. Such classification and differentia must be in a rational relation to the object sought to be achieved by legislation. There should be a nexus between classification and objects of legislation. This principle symbolizes that persons or thing similarly situated cannot be distinguished or discriminated while making or applying law. It has to be applied equally to persons situated similarly and in same situation. Any law made or action taken in violation of these principles shall be liable to be struck down as violative of Art. 25. Law clothes any statutory authority or functionary with unguided and arbitrary power enabling it to administer it in a discriminatory manner, such law would violate equality clause of Art. 25. Substantive and procedural law and action taken under it can be challenged as violative of Arts. 8, 25 on ground of absence of reasonable classification.

The policy of up-gradation of the province is not in line with the legal requirement nor there exists any reasonable classification for not allowing BS-17 to the petitioners, thus it is held that petitioners are discriminated. The writ petition is allowed and respondents are directed to upgrade the post of Assistant Public Prosecutor from BPS-16 to BPS-17 w.e.f 2010.

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14. In view of above this writ petition as well as the connected writ petition are allowed. Respondents are directed to issue the notification of petitioners in BPS-18 as Deputy Public Prosecutor and petitioners of connected writ petition in BPS-19 as Public Prosecutors, with immediate effect.

Announced,
7th June, 2016
Tara Jan.

Wages Ahmad Seth - J JUDGE
Qaiser Faisal Khan - J JUDGE

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M - P. S. Khan

CERTIFIED TO BE TRUE COPY


Secretary
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of Pakistan Order 1964

21 JUN 2016

15/6

CHARGE ASSUMPTION REPORT UNDER PROTEST

In compliance with notification bearing No.SO (Prosecution) HD/1-10-UP/2017/VOL-1 dated: 02.02.2017 of Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department Peshawar, upon the upgradation of the post of Public Prosecutor from BPS-18 to BPS-19. I. Shahzad Iqbal Public Prosecutor Abbottabad (BPS-18) do hereby assumed the charge in BPS-19 as Public Prosecutor, Abbottabad. However, assumption of charge in BPS-19 is under protest, so as, to save my service from breakup, as Service Appeal of undersigned has also been allowed vide Judgment dated 17-05-2016, wherein directions have been issued to concerned departments to consider the case of undersigned for promotion in line with those who have been promoted in February, 2013.


SHAHZAD IQBAL
Public Prosecutor
Abbottabad

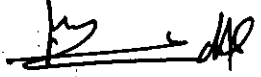
OFFICE OF THE DISTRICT PUBLIC PROSECUTOR ABBOTTABAD

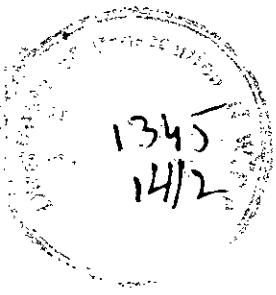
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Dated Abbottabad the 03/02/2017

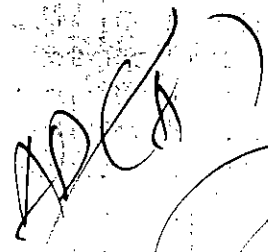
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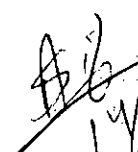
1. The P.S Secretary to Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department Peshawar for information.
2. The Director General Prosecution Government of KPK, Home & Tribal Affairs Department Peshawar.
3. The Accountant General Government of KPK.
4. The District Accounts Officer Abbottabad.
5. Office Copy.


SYED AMJAD ALI
District Public Prosecutor
Abbottabad


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Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

NO. SO (Pros)/HD/1-10/2017/Vol-I
Dated Peshawar the 30th January, 2017

To

The Secretary to Government of Khyber Pakhtunkhwa,
Establishment Department, Peshawar.

Subject: WORKING PAPER FOR PROVINCIAL SELECTION BOARD (P.S.B)

Dear Sir,

I am directed to forward herewith Working Paper along with its enclosures, which is self-explanatory on the subject cited above for further necessary action, please.

Yours faithfully,


(Jehanzeb Khan)

Section Officer (Prosecution)

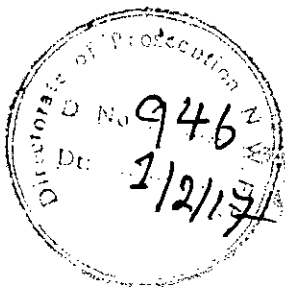
Ph:# 091-9210541


Fax:# 091-9210201

Encl: as above

C.C.

1. The Director General Prosecution, Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary Home & Tribal Affairs Department, Peshawar.
3. PS to Special Secretary, Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.




1-2-2017
DA

AD (A)



d/02

9/02/17
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Spm



PANEL OF OFFICERS FOR CONSIDERATION

| S.No | Seniority | Name of Officer with Qualification | Date of Birth | Date of 1 st entry into Govt Service | Date of Appointment to BS-17 | Date of regular appointment / promotion to the present scale | Whether fulfill the prescribed length of service | Quantified Scores | Missing PERs (if any) | Disciplinary proceeding (if any) | Case (if any) in any court of Law including NAB/ plea bargaining with NAB | Mandatory training for promotion | Research Papers | Present posting | Remarks |
|------|-----------|-------------------------------------|---------------|---|------------------------------|--|--|-------------------|-----------------------|----------------------------------|---|----------------------------------|-----------------|---------------------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| 1. | 1 | Mr. Gul Waris Khan, B.A, LL.B | 10/07/1968 | 09/01/2001 | 09/01/2001 | 29/01/2015 | Yes | 53 | No | No | No | NA | NA | Lakki Marwat | Demoted from BS-19 to 18 vide order dated 29-01-2015 (Annexure-F) |
| 2. | 2 | Mr. Zulfiqar Ali Khan B.A, L.L.B | 03/03/1968 | 19/04/2002 | 19/04/2002 | 14-02-2013 | Yes | 55.89 | No | No | No | NA | NA | Director Provincial Services Academy. | Eligible |
| 3. | 3 | Mr. Saeed Naeem, M.A, L.L.B | 10/03/1966 | 19/04/2002 | 19/04/2002 | -do- | Yes | 56.36 | No | No | No | NA | NA | Swat | Eligible |

| | | | | | | | | | | | | | | | |
|-----|----|--|------------|------------|------------|------------|-----|-------|----|---|----|----|----|------------|---|
| 4. | 4 | Mr. Farman Ullah, M.B.A, M.A & LL.B | 15/01/1965 | 19/03/1992 | 19/03/1992 | -do- | Yes | 54.64 | No | Yes, pending process order (Annex ure-G) | No | NA | NA | Kohat | Not Eligible due to pending Inquiry |
| 5. | 5 | Mr. Kamran Khan Wazir, B.A, L.L.B | 04/02/1968 | 19/04/2002 | 19/04/2002 | -do- | Yes | 50.69 | No | No | No | NA | NA | Bannu | Eligible |
| 6. | 6 | Muhammad Jehanzeb Sheikh, B.Sc, LL.B | 20/09/1967 | 19/04/2002 | 19/04/2002 | -do- | Yes | 50.26 | No | No | No | NA | NA | D.I.Khan | Eligible |
| 7. | 7 | Mr. Jehanzeb Khan, B.A, LL.B | 25/12/1967 | 19/04/2002 | 19/04/2002 | -do- | Yes | 52.68 | No | No | No | NA | NA | Mardan | Eligible |
| 8. | 8 | Mr..Shehzad Iqbal, B.A, LL.B | 08/06/1967 | 04/04/2003 | 04/04/2003 | 14-11-2008 | Yes | 53.39 | No | No | No | NA | NA | Abbottabad | Eligible |
| 9. | 9 | Mr. Qadir Baksh, B.Sc, LL.B | 09/05/1959 | 11/09/1989 | 11/09/1989 | 14/02/2013 | Yes | 51.39 | No | No | No | NA | NA | D.I.Khan | Eligible |
| 10. | 10 | Mr. Fazal Noornai, B.A, LL.B | 01/03/1970 | 04/04/2003 | 04/04/2003 | 30/04/2013 | Yes | 47.91 | No | No | No | NA | NA | Swat | Eligible |
| 11. | 11 | Mr. Arif Bilal, M.A, LL.B | 23/03/1968 | 04/04/2003 | 04/04/2003 | -do- | Yes | 52.25 | No | No | No | NA | NA | Swat | Eligible |

| | | | | | | | | | | | | | | | |
|-----|----|--|------------|------------|------------|------------|-----|-------|----|----|----|----|----|-----------|----------|
| 12. | 12 | Mr. Zahid Amin, B.A, LL.B | 20/04/1972 | 04/04/2003 | 04/04/2003 | 30/03/2011 | Yes | 44.78 | No | No | No | NA | NA | Buner | Eligible |
| 13. | 13 | Mr. Atta Ullah Shah, B.A, LL.B | 25/11/1968 | 04/04/2003 | 04/04/2003 | 30/04/2013 | Yes | 47.96 | No | No | No | NA | NA | Karak | Eligible |
| 14. | 14 | Mr. Faheem Khan, B.Sc,LL.B | 03/03/1969 | 04/04/2003 | 04/04/2003 | -do- | Yes | 52.06 | No | No | No | NA | NA | Peshawar | Eligible |
| 15. | 15 | Mr. Jamshed Khan, M.A,LL.B | 15/08/1965 | 04/04/2003 | 04/04/2003 | -do- | Yes | 52.65 | No | No | No | NA | NA | Kohistan | Eligible |
| 16. | 16 | Mr. Malik Zaheer-Ud-Din Babar, B.Sc,LL.B | 12/07/1968 | 16/09/2003 | 16/09/2003 | -do- | Yes | 55.13 | No | No | No | NA | NA | Kohat | Eligible |
| 17. | 17 | Mr. Mian Shahid-Ur-Rehman, B.Sc,LL.B | 06/10/1971 | 16/09/2003 | 16/09/2003 | -do- | Yes | 48.93 | No | No | No | NA | NA | Battagram | Eligible |
| 18. | 18 | Mr. Muhamma d Zulfiqar Ali, B.A,LL.B | 20/04/1968 | 16/09/2003 | 16/09/2003 | 14/11/2008 | Yes | 54.03 | No | No | No | NA | NA | Peshawar | Eligible |
| 19. | 19 | Mr. Muhamma d Ayub, B.A, LL.B | 12/11/1968 | 16/09/2003 | 16/09/2003 | -do- | Yes | 51.57 | No | No | No | NA | NA | Bannu | Eligible |

| | | | | | | | | | | | | | | | |
|-----|----|--|------------|------------|------------|------|-----|-------|-----|----|----|----|----|----------------------------|------------------------------------|
| 20. | 20 | Mr. Saqib Sultan Jadoon, B.A, LL.B | 27/02/1971 | 16/09/2003 | 16/09/2003 | -do- | Yes | 55.72 | No | No | No | NA | NA | Haripur | Eligible |
| 21. | 21 | Mr. Irshad Ullah, B.Sc, LL.B | 01/01/1966 | 16/09/2003 | 16/09/2003 | -do- | Yes | 57.07 | No | No | No | NA | NA | Directorate of Prosecution | Eligible |
| 22. | 22 | Mr. Muhammad Irshad, B.A, LL.B | 05/12/1970 | 16/09/2003 | 16/09/2003 | -do- | Yes | 59.57 | No | No | No | NA | NA | Mardan | Eligible |
| 23. | 23 | Mr. Bashir Muhammad, M.A, LL.B | 05/11/1960 | 16/09/2003 | 16/09/2003 | -do- | Yes | 55.87 | No | No | No | NA | NA | Abbottabad | Eligible |
| 24. | 24 | Mr. Muhammad Litaf, B.A, LL.B | 13/02/1971 | 16/09/2003 | 16/09/2003 | -do- | Yes | 57.95 | No | No | No | NA | NA | Nowshera | Eligible |
| 25. | 25 | Mr. Muhammad Khalid, B.A, LL.B | 20/08/1969 | 16/09/2003 | 16/09/2003 | -do- | Yes | 54.60 | Yes | No | No | NA | NA | Peshawar | Not Eligible due to incomplete PER |
| 26. | 26 | Mr. Alam Zeb Khan, B.A, LL.B | 12/12/1964 | 26/09/1991 | 14-02-2004 | -do- | Yes | 59.30 | No | No | No | NA | NA | Malakand | Eligible |
| 27. | 27 | Mr. Liaqat Ali, BSc, LL.B | 30/01/1970 | 14/02/2004 | 14/02/2004 | -do- | Yes | 56.22 | No | No | No | NA | NA | Directorate of Prosecution | Eligible |
| 28. | 28 | Mr. Raza Khan, B.A, LL.B | 09/01/1970 | 14/02/2004 | 14/02/2004 | -do- | Yes | 55.44 | No | No | No | NA | NA | Swat | Eligible |

| | | | | | | | | | | | | | | | |
|-----|----|--|------------|------------|------------|------|-----|-------|-----|----|----|----|----|------------|----------|
| 29. | 29 | Mr. Abdul Hamid, M.A, LL.B | 01/01/1961 | 30/07/1991 | 14-02-2004 | -do- | Yes | 56.64 | No | No | No | NA | NA | Abbottabad | Eligible |
| 30. | 30 | Mr. Muhammad Younas Khan, M.A, LL.B | 10/01/1966 | 13/07/1991 | 14-02-2004 | -do- | Yes | 56.87 | Yes | No | No | NA | NA | Swabi | Eligible |

1. Certified that the officers included in the panel are eligible for promotion in all respects (Except at S.No. 04 & 25), while, officer at Sr.No. 03 namely Sibghatullah of the notified Seniority List (Annexure-D), has already been retired vide notification (Annexure-G).

Signature: _____

Designation: _____

Date: _____

[Handwritten Signature]

 HOME SECRETARY



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME DEPARTMENT
IRS DEPARTMENT
Peshawar, dated the 11th April, 2017.

NOTIFICATION

NO. SO (Prosecution) HD/1-2/2017/Vol-I: The Government of Khyber Pakhtunkhwa on the recommendations of the Provincial Selection Board is pleased to promote the following Senior Public Prosecutors/District Public Prosecutors, BS-19 (Acting Charge)/Public Prosecutors (BS-19) to the post of Senior Public Prosecutors/District Public Prosecutors, BPS-19 on regular basis with immediate effect:

| S.# | Name of the officer |
|-----|-------------------------------|
| 1. | Mr. Gul Waris Khan |
| 2. | Mr. Zulfiqar Ali Khan |
| 3. | Mr. Saeed Naeem |
| 4. | Mr. Farnian Ullah |
| 5. | Mr. Kamran Khan Wazir |
| 6. | Muhammad Jehanzeb Sheikh |
| 7. | Mr. Jehanzeb Khan |
| 8. | Mr. Shahzad Iqbal |
| 9. | Mr. Qadir Bakhsh |
| 10. | Mr. Fazal Noorani |
| 11. | Mr. Arif Bilal |
| 12. | Mr. Atta Ullah Shan |
| 13. | Mr. Faheem Khan |
| 14. | Mr. Jamshed Khan |
| 15. | Mr. Malik Zaheer ud Din Babar |
| 16. | Mian Shahid ur Rehman |
| 17. | Muhammad Zulfiqar Ali |
| 18. | Muhammad Ayub |
| 19. | Mr. Saqib Sultan Jadoon |
| 20. | Mr. Irshadullah |
| 21. | Muhammad Irshad |
| 22. | Bashir Muhammad |

2. The officers on promotion shall remain on probation for a period of one year extendable for another 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.

Chief Secretary
Khyber Pakhtunkhwa

Encl: No. & date even

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
2. The PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
3. The Director General Prosecution Khyber Pakhtunkhwa.
4. The Accountant General Khyber Pakhtunkhwa Peshawar.
5. The Advocate General Khyber Pakhtunkhwa, Peshawar.
6. All District Public Prosecutors in Khyber Pakhtunkhwa.
7. All District Accounts Officer in Khyber Pakhtunkhwa.
8. P.S to Secretary Home & Tribal Affairs Department Peshawar.
9. P.S to Special Secretary Home & Tribal Affairs Department, Peshawar.

Section Officer (Prosecution)

The PSB, being competent authority, vide Minutes of the Meeting (**Annexure-B**), has not recommended/considered the applicant/petitioner for his appointment on acting charge basis due to pending inquiry against him. It is pertinent to mention that applicant has not arrayed members of the PSB (except respondent No. 02 & 03) as respondents. It was mandatory for implementation of any order/judgment passed by the Tribunal. Thus, the replying respondents were only supposed to refer the applicant/petitioner to PSB for consideration of his appointment on acting charge basis, which they did. However, his name for such appointment has not been considered by the competent authority i.e PSB. Thus, legally implementation of judgment to the effect of alike treatment meted out to his junior colleagues of the applicant/petitioner was supposed to be carried out by the PSB, being having domain over the issue. However, petitioner has not impleaded them as party neither in a

before the Khyber Pakhtunkhwa Service Tribunal Peshawar at Abbottabad

In Execution Petition No.116/2016.

Shehzad Iqbal, Public Prosecutor, Abbottabad

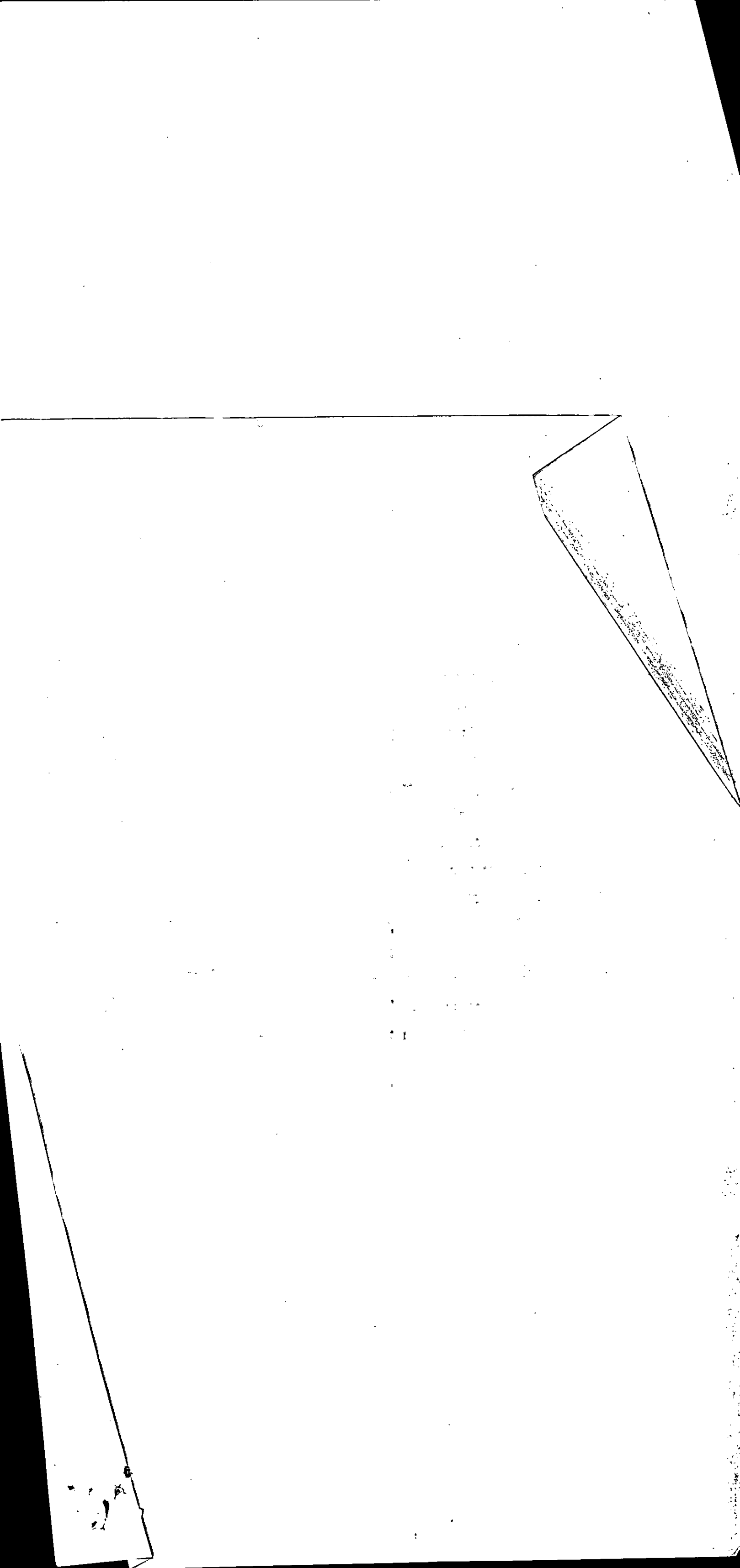
VS

The Chief Secretary Khyber Pakhtunkhwa & Others

**IMPLEMENTATION REPORT ON BEHALF
OF THE RESPONDENTS IN EXECUTION
PETITION OF SERVICE APPEAL NO.
1228/2013.**

Respectfully Sheweth,

1. That, in the year 2012, the respondents No.02 & 03 forwarded working paper (**Annexure-A**) to Provincial Selection Committee (hereinafter referred to PSB) for the appointments of the Public Prosecutors (BS-18), on acting charge basis to the post of Senior Public Prosecutor (BS-19), wherein, name of the applicant/petitioner was placed at Serial No.11 of the same.
2. That, the PSB is the recommending authority and have a sole domain to decide the fate of every sort of promotion cases of the officers in (BS-17) and above and is working with following composition.
 - i. Chief Secretary Khyber Pakhtunkhwa.....Chairman.
 - ii. Additional Chief Secretary Khyber Pakhtunkhwa Member.
 - iii. Senior Member Board of Revenue Khyber Pakhtunkhwa
.....Member.
 - iv. Administrative Secretary concerned (in the instant case Home Secretary).....Member.
 - v. Secretary Establishment Department..Member/Secretary.

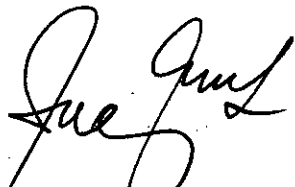


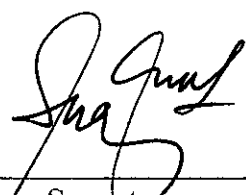
The PSB, being competent authority, vide Minutes of the Meeting (**Annexure-B**), has not recommended/considered the applicant/petitioner for his appointment on acting charge basis due to pending inquiry against him. It is pertinent to mention that applicant has not arrayed members of the PSB (except respondent No.02), which was mandatory for implementation of any order/judgment passed by this honorable Tribunal. Thus, the replying respondents were only supposed to forward name of the applicant/petitioner to PSB for consideration of his appointment on acting charge basis, which they did. However, his name for such appointment has not been considered by the competent authority i.e PSB. Thus, legally implementation of judgment to the effect of alike treatment meted out to his junior colleagues of the applicant/petitioner was supposed to be carried out by the PSB, being having domain over the issue. However, petitioner has not impleaded them as party neither in a service appeal nor in execution petition.

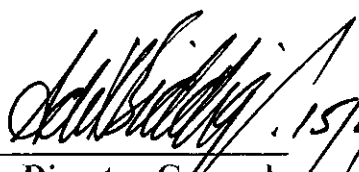
3. That, the applicant/petitioner is already promoted to the post of senior Public Prosecutor (BS-19) on a regular basis vide notification No. SO(Prosecution) HD/1-2/2017/Vol-I dated 11-04-2017 (**Annexure-C**), his due seniority is given to him. The other junior colleagues who were appointed on acting charge basis are still junior to applicant. Thus, grievances of the applicant has been fulfilled by the replying respondents. It is relevant to mention that when the instant judgment dated 17-05-2016 was passed by this Honorable Tribunal, then by that time requisite length of service of the applicant/petitioner was completed for promotion to the post of Senior Public Prosecutor (BS-19), therefore his case could not be forwarded to PSB for his appointment on acting charge basis rather the replying respondents have moved promotion case of petitioner/applicant on regular basis and accordingly he has been promoted to the post of Senior Public Prosecutor (BS-19) on regular basis. Thus, in the scenario the instant petition has become infructuous. Needless to mention that the appointment of junior colleagues of applicant/petitioner on acting charge base was only made on the basis of the stop gap-arrangement and when the officer got promotion on regular basis to higher grade then how his case could be processed for appointment on acting charge base.


4. That to the extent of domain of replying Respondents implementation of judgment dated 17-05-2016 has been made.

It is therefore, requested that the prayer of the applicant/petitioner is complied with by the respondents and keeping in view his regular promotion to the post of Senior Public Prosecutor (BS-19), his stance in the execution petition may kindly not be considered being infructuous.


for Chief Secretary, Khyber Pakhtunkhwa
(Respondent No.1)


Secretary
Home & Tribal Affairs Department,
Government of Khyber Pakhtunkhwa
(Respondent No.2)


Director General
Directorate of Prosecution
(Respondent No.3)


Director Legal
Directorate of Prosecution
(Respondent No.4)

Handwritten notes:
1. 15/8/17
2. 15/8/17
3. 15/8/17

Annex-A

PSB-I

WORKING PAPER FOR PROVINCIAL SELECTION BOARD (P.S.B)

Department: HOME & TRIBAL AFFAIRS.

Nomenclature of the post/ Basic Scale
Service/Group/Cadre
Sanctioned strength of the cadre

District Public Prosecutor/ Senior Public Prosecutor (BPS-19)
Prosecution Service
40 posts

| | Direct | Promotion | Transfer |
|---|---|-----------|----------|
| (i) Percentage of share | | 100% | |
| (ii) No. of post allocated to each category | | 40 | |
| (iii) Present occupancy position | | 22 | |
| (iv) No. of vacant vacancies in each category. | | 18 | |
| (v) How did the vacancy (s) under promotion quota occur and since when? | 38 posts of Public Prosecutors (BPS-18) were up-graded in BPS-19 for prosecution service vide Notification No. SO(Pros)/ HD/ 1-10/ 2009 dated 05-08-2009, out of 65 posts in BPS-18 (Annexure-G), while 2 posts of Senior Public Prosecutors in BPS-19 were approved by the Honourable Chief Minister Khyber Pakhtunkhwa on dated 24-03-2011(Annexure-H). | | |

- (vi) Recruitment Rules
Khyber Pakhtunkhwa Prosecution Service Rules-2005 amended in 2010. (Annexure-E & F).
- (vii) Require length of service
By promotion on the basis of seniority cum-fitness from amongst the public prosecutors/ Assistant Director (Admn/ Finance) with at least twelve years service in BPS-17 and above.
- (viii) Whether to be promoted on regular basis or appointed on acting charge basis?
The officer at Sr.No.1 to be promoted on regular basis has completed 12-years approved service in BPS-17 and above, therefore his case for promotion may be considered on regular basis, while the rest of officers have not completed the requisite length of service of 12-years, therefore, their case for promotion may be considered on acting charge basis as per the mandate of first proviso of Rule-9 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.
- (ix) Mandatory training, if any
N.A
- (x) Minimum required score on EI
70%

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

PANEL OF PUBLIC PROSECUTORS (BPS-18) FOR CONSIDERATION

| S.No. | Name of Public Prosecutors | Remarks |
|-------|----------------------------|---|
| 1 | Mr. Nasrullah Khan | Eligible for promotion on regular basis as the officer has completed 12-years approved service in BPS-17 and above. |
| 2 | Syed Imtiaz-Ud-Din Mansoor | Eligible for promotion on acting charge basis as the officer has completed more than 10-years approved service in BPS-17 and above, however, PER of the officer for the period from 30-09-2011 to 31-12-2011 is incomplete. |
| 3 | Mr. Gul Waris Khan | Eligible for promotion on acting charge basis as the officer has completed more than 10-years approved service in BPS-17 and above. |
| 4 | Mr. Zulfiqar Ali | Eligible for promotion on acting charge basis as the officer has completed more than 10-years approved service in BPS-17 and above. |
| 5 | Mr. Sibghat Ullah | Eligible for promotion on acting charge basis as the officer has completed more than 10-years approved service in BPS-17 and above. |
| 6 | Mr. Saeed Naeem | Eligible for promotion on acting charge basis as the officer has completed more than 10-years approved service in BPS-17 and above. |
| 7 | Mr. Farmanullah | Eligible for promotion on acting charge basis as the officer has completed more than 10-years approved service in BPS-17 and above. |
| 8 | Mr. Kamran Khan Wazir | Eligible for promotion on acting charge basis as the officer has completed more than 10-years approved service in BPS-17 and above. |
| 9 | Muhammad Jehanzeb | Eligible for promotion on acting charge basis as the officer has completed 10-years approved service in BPS-17 and above. |
| 10 | Mr. Jehanzeb Khan | Eligible for promotion on acting charge basis as the officer has completed 10-years approved service in BPS-17 and above. |
| 11 | Mr. Shahzad Iqbal | Eligible for promotion on acting charge basis as the officer has completed more than 9-years approved service in BPS-17 and above. |
| 12 | Mr. Qadir Bakhsh | Eligible for promotion on acting charge basis as the officer has completed 9-years approved service in BPS-17 and above. |
| 13 | Mr. Fazali Noorani | Eligible for promotion on acting charge basis as the officer has completed more than 9-years approved service in BPS-17 and above, however, PERs of the officer for the years 2010 and 2011 are incomplete. |
| 14 | Mr. Arif Bilal | Eligible for promotion on acting charge basis as the officer has completed more than 9-years approved service in BPS-17 and above, however, PERs of the officer for the year 2011 are incomplete. |
| 15 | Mr. Zahid Amin | Eligible for promotion on acting charge basis as the officer has completed more than 9-years approved service in BPS-17 and above. |
| 16 | Mr. Atta Ullah Shah | Eligible for promotion on acting charge basis as the officer has completed more than 9-years approved service in BPS-17 and above, however, PERs of the officer for the year 2010 and from 01-01-2011 to 31-05-2011 and from 01-10-2011 to 31-12-2011 are incomplete. |
| 17 | Mr. Fahim Khan | Eligible for promotion on acting charge basis as the officer has completed 9-years approved service in BPS-17 and above. |
| 18 | Mr. Jamshed Khan | Eligible for promotion on acting charge basis as the officer has completed more than 9-years approved service in BPS-17 and above. |

CERTIFICATE

- It is certified that all the officers included in the panel for promotion:-
- Hold the lower post on regular basis and none of them is holding on adhoc basis;
 - The seniority list notified as final and not disputed;
 - No criminal/ judicial proceeding is pending against the officer;
 - No disciplinary/ departmental proceeding is pending against the officer except the officer at Sl.No.11, against whom Departmental Proceeding is pending.

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department.

CONFIDENTIAL
IMMEDIATE



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

No. SO(PSB)ED/1-9/2012/P-33
Dated Peshawar, the 28.12.2012



To
The Secretary to
Government of Khyber Pakhtunkhwa,
Home & TAs Department

SUBJECT: - MINUTES OF THE MEETING OF PROVINCIAL SELECTION BOARD HELD ON 14.12.2012

APPOINTMENT OF PUBLIC PROSECUTOR BS-18 TO THE POST OF DISTRICT PUBLIC PROSECUTOR/ SENIOR PUBLIC PROSECUTOR BS-19 ON ACTING CHARGE BASIS

Dear Sir,

I am directed to refer to Home and TAs Department letter No. SO (Pros) HD/1-10/2012 dated 08.11.2012 & letter No. SO (Pros)/HD/1-29/2012 dated 12.12.2012 on the subject and to forward herewith an extract of item No.27 of the minutes/recommendations of the meeting of Provincial Selection Board held on 14.12.2012.

I am further directed to request that the case regarding their acting charge appointment may send for approval of the competent authority. However notification in respect of Officers from S. No. 11 onward may be kept pending till vacation of stay order of the court.

Yours faithfully

(Signature)
(JAN SAID)

SECTION OFFICER (PSB)

Encl: As Above
Endst. of even No. & date.

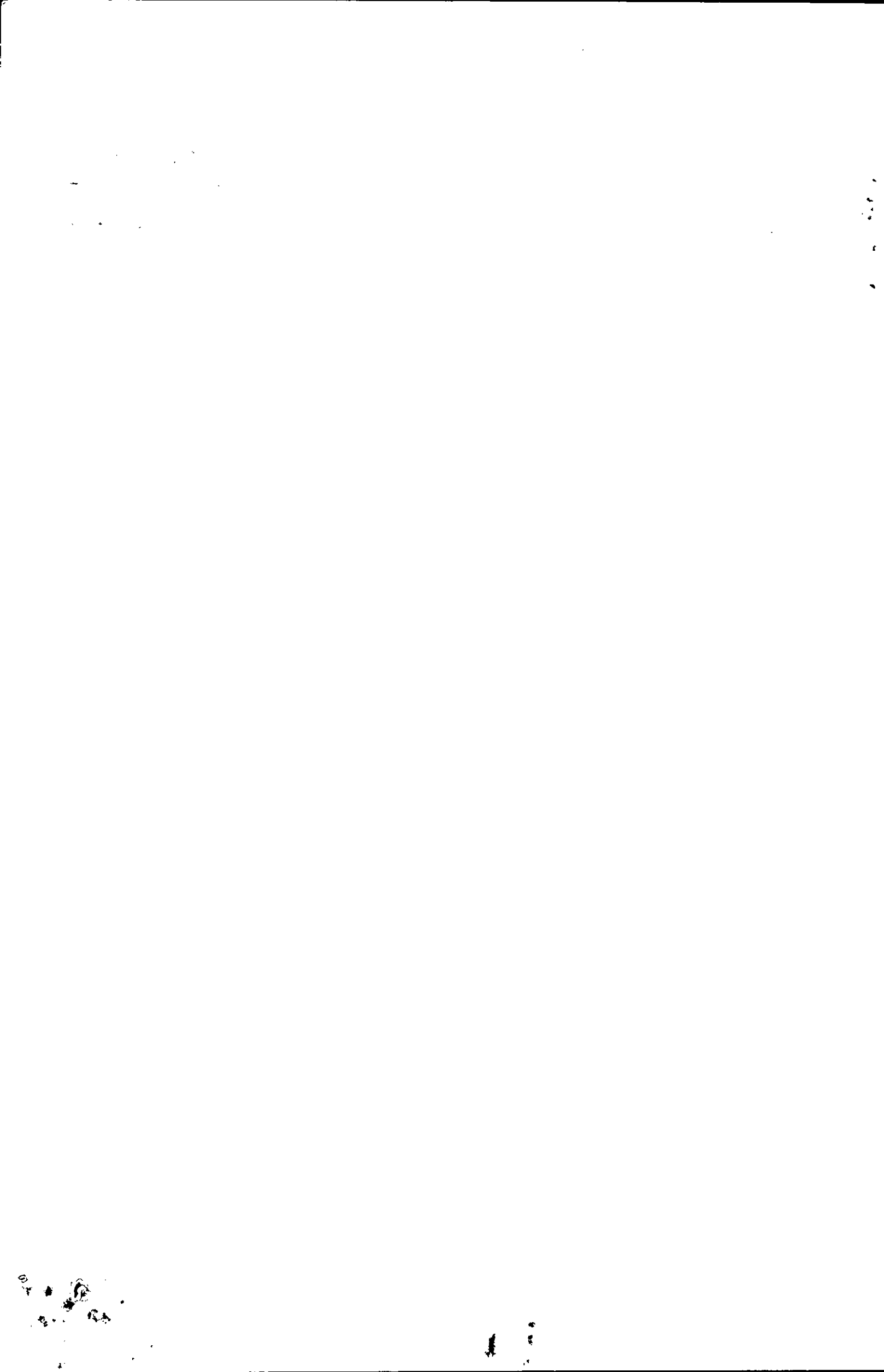
A copy is forwarded to the Section Officer (Pros), Govt of Khyber Pakhtunkhwa Home & TAs Department. He is requested to depute his representative to collect working papers from this office immediately.

SECTION OFFICER (PSB)

AS(T)

BS(T)

(1805)



HOME & TAs DEPARTMENT
(Meeting of PSB held on 14.12.2012)

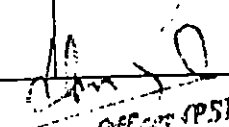
SUBJECT: - APPOINTMENT OF PUBLIC PROSECUTOR BS-18 TO THE POST OF DISTRICT PUBLIC PROSECUTOR/ SENIOR PUBLIC PROSECUTOR BS-19 ON ACTING CHARGE BASIS.

Secretary Home & TAs apprised the Board that due to upgradation, eighteen (18) posts of District Public Prosecutor/senior Public Prosecutor BS-19 are lying vacant. Inter-seniority of Public Prosecutor at S. No. 11 onward of the seniority list is pending for decision in the Khyber Pakhtunkhwa Service Tribunal in service appeal filed by Mr. Rast Baz Khan Public Prosecutor BS-18 wherein the Honorable Tribunal in its order dated 28.03.2012 directed that the promotion case of the officers may be processed but promotion notification be not issued. Therefore the promotion notification of the officers at S. No. 11 onward will not be issued till the decision of vacation of stay order.

2. According to service rules the post is required to be filled as under:
By promotion on the basis of seniority-cum-fitness from amongst the public prosecutor / Assistant Director (Admn/Finance) with atleast 12 year service in BS-17 and above
3. The service record of the officers included in the penal was discussed as follows:

| S:NO | NAME OF OFFICER | RECOMMENDATIONS OF THE BOARD |
|------|----------------------------|---|
| 1. | Mr. Nasrullah Khan | His date of birth is 10.04.1953. He joined government service on 13.08.1978. He was promoted to BS-18 on 30.03.2011. He has not yet completed probation period. The Board did not recommend him for promotion |
| 2. | Syed Imtiaz ud Din Mansoor | His date of birth is 12.10.1963. He joined government service on 09.01.2001 in BS 17. He was promoted to BS-18 on 14.11.2008. He has not yet completed prescribed length of service for regular promotion to BS-19. No enquiry is pending against him. His PER for the period 16.02.2010 to 30.04.2010 and 26.05.2010 to 31.07.2010 were not written as his posting period with each reporting officer was less than 03 months. His PER for the period from 30.09.2011 to 31.12.2011 is not available. The Board did not recommend him for appointment on acting charge basis. |
| 3. | Mr. Gul Waris Khan | His date of birth is 10.07.1968. He joined government service on 09.01.2001 in BS 17. He was promoted to BS-18 on 30.03.2011. He has not yet completed probation period. |

| | | |
|----|-----------------------|--|
| | | The Board did not recommend him for appointment |
| 4. | Mr. Zulfiqar Ali Khan | <p>His date of birth is 03.03.1968. He joined government service on 19.04.2002 in BS 17. He was promoted to BS-18 on 14.11.2008. He has not yet completed prescribed length of service for regular promotion to BS-19. No enquiry is pending against him. His service record upto 2011 is generally good.</p> <p>The Board recommended the officer for appointment to BS-19 on acting charge basis.</p> |
| 5. | Mr. Sibghat Ullah | <p>His date of birth is 01.01.1957. He joined government service on 19.04.2002 in BS 17. He was promoted to BS-18 on 14.11.2008. He has not yet completed prescribed length of service for regular promotion to BS-19. No enquiry is pending against him. His PER for the period 16.02.2010 to 30.04.2010 and 26.05.2010 to 31.07.2010 were not written as his posting period with each reporting officer was less than 03 months His remaining service record upto 2011 is generally good.</p> <p>The Board recommended the officer for appointment to BS-19 on acting charge basis</p> |
| 6. | Mr. Saeed Naeem | <p>His date of birth is 10.03.1966. He joined government service on 19.04.2002 in BS 17. He was promoted to BS-18 on 14.11.2008. He has not yet completed prescribed length of service for regular promotion to BS-19. No enquiry is pending against him. His PER for the period 16.02.2010 to 30.04.2010 and 26.05.2010 to 31.07.2010 were not written as his posting period with each reporting officer was less than 03 months His service record upto 2011 is generally good.</p> <p>The Board recommended the officer for appointment to BS-19 on acting charge basis</p> |
| 7. | Mr. Farman Ullah | <p>His date of birth is 15.01.1965. He joined government service on 19.03.1992 and appointed to BS-17 on 19.04.2002 He was promoted to BS-18 on 14.11.2008. He has not yet completed prescribed length of service for regular promotion to BS-19. No enquiry is pending against him. His PER for the period 16.02.2010 to 30.04.2010 and 26.05.2010 to 31.07.2010 were not written as his posting period with each reporting officer was less than 03 months His remaining service record upto 2011 is generally good.</p> <p>The Board recommended the officer for appointment</p> |


 Section Officer (PSB)
 Government of Punjab
 Department of Public Service Commission

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| | | to BS-19 on acting charge basis |
| 8. | Mr. Kamran khan Wazir | <p>His date of birth is 04.02.1968. He joined government service on 19.04.2002 in BS 17. He was promoted to BS-18 on 14.11.2008. He has not yet completed prescribed length of service for regular promotion to BS-19. No enquiry is pending against him. His PER for the period 16.02.2010 to 30.04.2010 and 26.05.2010 to 31.07.2010 were not written as his posting period with each reporting officer was less than 03 months. His remaining service record upto 2011 is generally good.</p> <p>The Board recommended the officer for appointment to BS-19 on acting charge basis</p> |
| 9. | Muhammad Jehanzeb Skeikh | <p>His date of birth is 20.09.1967. He joined government service on 19.04.2002 in BS 17. He was promoted to BS-18 on 14.11.2008. He has not yet completed prescribed length of service for regular promotion to BS-19. No enquiry is pending against him. His PER for the period 16.02.2010 to 30.04.2010 and 26.05.2010 to 31.07.2010 were not written as his posting period with each reporting officer was less than 03 months. His service record upto 2011 is generally good.</p> <p>The Board recommended the officer for appointment to BS-19 on acting charge basis</p> |
| 10. | Mr. Jehanzeb Khan | <p>His date of birth is 25.12.1967. He joined government service on 11.09.1989 and appointed to BS-17 on 19.04.2002. He was promoted to BS-18 on 14.11.2008. He has not yet completed prescribed length of service for regular promotion to BS-19. No enquiry is pending against him. His service record upto 2011 is generally good.</p> <p>The Board recommended the officer for appointment to BS-19 on acting charge basis</p> |
| 11. | Mr. Shahzad Iqbal | <p>His date of birth is 08.06.1967. He joined government service on 04.04.2003 in BS 17. He was promoted to BS-18 on 14.11.2008. According to Home department an enquiry is pending against him.</p> <p>The Board did not recommend him for appointed on acting charge basis.</p> |
| 12. | Mr. Qadir Bakhash | <p>His date of birth is 09.05.1959. He joined government service on 04.04.2003 in BS 17. He was promoted to BS-18 on 14.11.2008. He has not yet</p> |

7/21/11

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| | | <p>completed prescribed length of service for regular promotion to BS-19. No enquiry is pending against him. His PER for the period 16.02.2010 to 30.04.2010 and 26.05.2010 to 31.07.2010 were not written as his posting period with each reporting officer was less than 03 months. His remaining service record upto 2011 is generally good.</p> <p>The Board recommended the officer for appointment to BS-19 on acting charge basis.</p> |
| 13 | Mr. Fazal Noorani | <p>His date of birth is 01.03.1970. He joined government service on 04.04.2003 in BS 17. He was promoted to BS-18 on 14.11.2008. He has not yet completed prescribed length of service for regular promotion to BS-19. His PER for the year 2010 and 2011 are also not available.</p> <p>The Board did not recommend him for appointment on acting charge basis.</p> |
| 14 | Mr. Arif Bilal | <p>His date of birth is 23.03.1968. He joined government service on 04.04.2003 in BS 17. He was promoted to BS-18 on 14.11.2008. He has not yet completed prescribed length of service for regular promotion to BS-19. No enquiry is pending against him. His PER for the period from 01.01.2008 to 31.07.2008 is not available which is before of his promotion to BS-18. His PER for the period from 16.02.2010 to 30.04.2010 and 26.05.2010 to 31.07.2012 were not written as his posting period with each reporting officer was less than three months. His PER for the year 2011 is also not available.</p> <p>The Board did not recommend him for appointment on acting charge basis.</p> |
| 15 | Mr. Zahid Amin | <p>His date of birth is 20.04.1972. He joined government service on 04.04.2003 in BS 17. He was promoted to BS-18 on 30.03.2011. He has not yet completed probation period.</p> <p>The Board did not recommend him for appointment on acting charge basis.</p> |
| 16 | Mr. Atta Ullah Shah | <p>His date of birth is 25.11.1968. He joined government service on 04.04.2003 in BS 17. He was promoted to BS-18 on 14.11.2008. He has not yet completed prescribed length of service for regular promotion to BS-19. No enquiry is pending against him. His PER for the year 2010 and for the period from 01.01.2011 to 31.05.2011 and 01.10.2011 to</p> |

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| | | <p>31.12.2011 are not available.</p> <p>The Board did not recommend him for appointment on acting charge basis.</p> |
| 17 | Mr. Fahim Khan | <p>His date of birth is 03.03.1969. He joined government service on 04.04.2003 in BS-17. He was promoted to BS-18 on 14.11.2008. He has not yet completed prescribed length of service for regular promotion to BS-19. No enquiry is pending against him. His PER for the period 16.02.2010 to 30.04.2010 and 26.05.2010 to 31.07.2010 were not written as his posting period with each reporting officer was less than 03 months. His remaining service record upto 2011 is generally good.</p> <p>The Board recommended the officer for appointment to BS-19 on acting charge basis.</p> |
| 18 | Mr. Jamshed Khan | <p>His date of birth is 15.08.1965. He joined government service on 04.04.2003 in BS-17. He was promoted to BS-18 on 14.11.2008. He has not yet completed prescribed length of service for regular promotion to BS-19. No enquiry is pending against him. His PER for the period 16.02.2010 to 30.04.2010 and 26.05.2010 to 31.07.2010 were not written as his posting period with each reporting officer was less than 03 months. His remaining service record upto 2011 is generally good.</p> <p>The Board recommended the officer for appointment to BS-19 on acting charge basis.</p> |

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11/11/11

Annex-C

GOVERNMENT OF KHYBER PAKHTUNKHWA

HOME & TRIBAL AFFAIRS DEPARTMENT

Peshawar, dated the 11th April, 2017.

NOTIFICATION

NO.SO (Prosecution) HD/1-2/2017/Vol-I: The Government of Khyber Pakhtunkhwa on the recommendations of the Provincial Selection Board is pleased to promote the following Senior Public Prosecutors/District Public Prosecutors, BS-19 (Acting Charge)/Public Prosecutors (BS-19) to the post of Senior Public Prosecutors/District Public Prosecutors, BPS-19 on regular basis with immediate effect:

| S.# | Name of the officer |
|-----|-------------------------------|
| 1. | Mr. Gul Waris Khan |
| 2. | Mr. Zulfiqar Ali Khan |
| 3. | Mr. Saeed Naeem |
| 4. | Mr. Farnian Ullah |
| 5. | Mr. Kamran Khan Wazir |
| 6. | Muhammad Jehanzeb Sheikh |
| 7. | Mr. Jehanzeb Khan |
| 8. | Mr. Shahzad Iqbal |
| 9. | Mr. Qadir Bakhsh |
| 10. | Mr. Fazal Noorani |
| 11. | Mr. Arif Bilal |
| 12. | Mr. Atta Ullah Shan |
| 13. | Mr. Faneem Khan |
| 14. | Mr. Jamshed Khan |
| 15. | Mr. Malik Zaheer ud Din Babar |
| 16. | Mian Shahid ur Rehman |
| 17. | Muhammad Zulfiqar Ali |
| 18. | Muhammad Ayub |
| 19. | Mr. Saqib Sultan Jadoon |
| 20. | Mr. Irshadullah |
| 21. | Muhammad Irshad |
| 22. | Bashir Muhammad |

2. The officers on promotion shall remain on probation for a period of one year extendable for another year, in terms of Section 6(2) of Khyber Pakhtunkhwa, Civil Servants Act, 1977, read with Rule 15(1) of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

Chief Secretary
Khyber Pakhtunkhwa

Encls: No. & date even

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
2. The PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
3. The Director General Prosecution Khyber Pakhtunkhwa.
4. The Accountant General Khyber Pakhtunkhwa Peshawar.
5. The Advocate General Khyber Pakhtunkhwa, Peshawar.
6. All District Public Prosecutors in Khyber Pakhtunkhwa.
7. All District Accounts Officer in Khyber Pakhtunkhwa.
8. PS to Secretary Home & Tribal Affairs Department Peshawar.
9. PS to Special Secretary Home & Tribal Affairs Department, Peshawar.

Section Officer (Prosecution)