


# FORM OF ORDER SHEET

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

**Appeal No. 607/2024**

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge   |
|-------|---------------------------|--|
| 1     | 2                         | 3  |
| 1-    | 29/04/2024                | <p>The appeal of Mr. Nazir Ahmad resubmitted today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 02.05.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p><br/>REGISTRAR</p> |

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

*Appeal* NO. \_\_\_\_\_/2024

Naziv Ahmed

VS GOVT. OF KPK & OTHERS

**APPLICATION FOR FIXATION OF THE ABOVE TITLED *Appeal* AT**  
**PRINCIPAL SEAT, PESHAWAR**

Respectfully Sheweth:

1. That the above mentioned *appeal* is pending adjudication before this Hon'ble Tribunal in which no date has been fixed so far.
2. That according to Rule 5 of the Khyber Pakhtunkhwa Service Tribunal Rules 1974, a Tribunal may hold its sittings at any place in Khyber Pakhtunkhwa which would be convenient to the parties whose matters are to be heard.
3. That it is worth mentioning that the offices of all the respondents concerned are at Peshawar and Peshawar is also convenient to the appellant/applicant meaning thereby that Principal Seat would be convenient to the parties concerned.
4. That any other ground will be raised at the time of arguments with the permission of this Hon'ble tribunal.

**It is therefore prayed that on acceptance of this application the *appeal* may please be fixed at Principal Seat, Peshawar for the Convenience of parties and best interest of justice.**

Appellant/Applicant

Dated: 29/11/24

Through

  
**NOOR MOHAMMAD KHATTAK**  
ADVOCATE SUPREME COURT

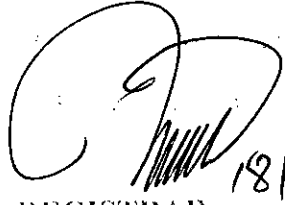
This is an appeal filed by Mr. Nazir Ahmad today on 17.04.2024 for granting of proforma promotion against which he filed Writ Petition before the Hon'ble Peshawar High Court Peshawar and the Hon'ble High Court vide its order dated 16.1.2024 treated the Writ Petition as departmental appeal/ representation for decision. On dated 25.01.2024 the Writ petition was sent by the office of Hon'ble High Court to respondent no. 1. The period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies.

- 1- Index is not according to the documents attached with the appeal.
- 2- Annexures of the appeal are not in sequence.
- 3- Nothing is clear in the facts of the instant appeal with regard to grievance against which the appellant is filling appeal since the appeal is not ✓ entertainable in the present format.

No. 803 /ST,

Dt. 18/4 /2024.

  
18/4/24  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Noor Muhammad Khattak Adv.  
High Court Peshawar.

*Prepared again a fresh,  
attending all the objections  
and re-submitted pl.*

*Noor Muhammad  
Khattak.  
29/4/024.*

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR  
SERVICE APPEAL NO...../2024**

*A-No. 607/2024*

**NAZIR AHMAD ..... Appellant**

**VERSUS**

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
AND OTHER ..... Respondents**

**INDEX**

| S.No | Dates         | Description of Documents  | Annexure | Pages |
|------|---------------|---|----------|-------|
| 1    |               | Memo of the Appeal  |          | 1-8   |
| 2    |               | Certificate   |          | 9     |
| 3    |               | Affidavit   |          | 10    |
| 4    | 07.06.2010    | Retirement due to age of Superannuation i.e. 60 years   | A        | 11    |
| 5    | 01.06.2002    | Seniority List where the Appellant is on the top  | B        | 12-14 |
| 06   | 28.11.2002    | PSB meeting, the Appellant was superseded due to the pending inquiries  | C        | 15-23 |
| 07   | 08.02.2003    | Promotion Orders of 20 Juniors from BPS-17 to BPS-18  | -do-     | 24-25 |
| 08   | 16.05.2003    | Imposition of minor penalty on the Appellant, of the inquiry shown in S.No. 06 above  | D        | 26    |
| 09   | 24.06.2003    | The Appellant filed appeal in Service Tribunal vide No. 598/2003 against the super session.   | E        | 27-30 |
| 10   | 2000 SCMR-645 | Vied this decision the August Supreme Court Orders that due to pending inquires no officer should be left un-promoted   | F        | 31-33 |
| 11   | 08.11.2004    | The PSB again superseded the Appellant due to minor penalties mentioned @ S.No. 08 above and promoted 30 more Juniors.  | G        | 34-36 |
| 12   | 23.12.2004    | Promotion Order of the above 30 more Juniors from BPS-17 to BPS-18  | -do-     | 37    |
| 13   | 05.05.2005    | The work & Services Deptt (now C&W Deptt) wrote letter to the Appellant that the appeal to the Chief Minister by the Appellant for remission of the minor penalties & as well as promotion has been accepted under condition that appeal in Service Tribunal should be with drawn | H        | 38    |

|    |            |  |                  |       |
|----|------------|--|------------------|-------|
|    | 07.05.2005 | The Appellant conditionally withdraw his Service Appeal that if his problems are not solved he will again approach the Service Tribunal  | H<br>(Continued) | 39    |
| 15 | 09.06.2005 | The minor Penalties on the Appellant were immediately withdrawn but the promotion from BPS-17 to BPS-18 was kept pending due to unknown reason in spite of approval by the Chief Minister as mentioned @ S.No. 13 above  | -do-             | 40    |
| 16 | 12.07.2005 | The PSB again deferred the Appellant for BPS-17 to BPS-18 saying that inquiry has been initiated while on ground there was nothing as minor penalties were withdrawn due to order of Chief Minister as mentioned @ S.No. 15 above  | I                | 41-42 |
| 17 | 31.12.2008 | The above mentioned 50 Juniors to the Appellant promoted from BS-17 to BS-18 now moved over from BS-18 to 19.  | J                | 43-44 |
| 18 | 30.04.2009 | Order to work against the post of BPS-19 in own pay scale i.e BPS-17 in addition to the post of BS18 on which the Appellant had already been ordered to work since 1999 but in own pay scale i.e BS-17   | -do-             | 45    |
| 19 | 30.09.2009 | The Deptt wrote a letter on 30.09.2009 that your appeal / application for promotion from BS17 to 18 has been ordered by PSB to be kept pending. This is done in spite of appeal of the Appellant accepted on 05.05.2005 for promotion from BS17 to BS18 by the Chief Minister as mentioned @S.No. 16 above | K                | 46    |
| 20 | 07.10.2009 | The Appellant again approached the Service Tribunal through S.A. No. 1758/2009 against the promotions of Juniors promoted from BS17 to BS18 in the PSB 28.11.2002 superseding the Appellant.   | -do-             | 47-54 |
| 21 | 25.03.2010 | The C&W Deptt forwarded promotion of 26 more Juniors from BS17 to BS18 with name of Appellant at top of the list but also in this PSB the Appellant was again left un-Promoted making excuse of pending inquiry while in the list of recommendation to PSB nothing of this sort has been mentioned.        | -do-             | 55-58 |

|    |            |  |                  |       |
|----|------------|--|------------------|-------|
|    | 25.10.2011 | The Service Tribunal asked the C&W Deptt to submit record of the pending case against the Appellant.   | K<br>(Continued) | 59-60 |
| 23 | 19.01.2012 | Acceptance of appeal of the Appellant by the Service Tribunal after going through the pending inquiry and all other things against the Appellant but found not being serious matters, as such rejecting all objections of the Departments and PSB.   | -do-             | 61-66 |
| 24 | 17.01.2013 | The Department approached the Supreme Court against the decision as mentioned above in S.No. 23 but the appeal was rejected by the Supreme Court   | L                | 67-68 |
| 25 | 11.09.2013 | Still the PSB in meeting on 07.08.2013 not promoted the Appellant from BS17 to BS18 in spite of Service Tribunal decision in favour of the Appellant and Supreme Court direction as mentioned @S.No.23 & 24 above  | -do-             | 69    |
| 26 | 13.12.2013 | The Appellant for the 3 <sup>rd</sup> time approached the Service Tribunal for his promotion from BS 17 to 18 w.e.f 08.02.2003 & from BS 18 to BS 19 w.e.f 31.12.2008 narrating all the previous history.  | M                | 70-75 |
| 27 | 19.10.2016 | Acceptance of the appeal mentioned @S.No. 26 above in favour of the Appellant to promote to BS 18 & BS 19 as asked for by the Appellant in his appeal. In this decision the Tribunal on page 79 & 80 has rejected the plea of the Govt. to say that there is pending inquiry against the Appellant and has ordered that this excuse has become closed transaction. | -do-             | 76-80 |
| 28 | 12.10.2017 | Still the PSB in its meeting 25.09.2017 did not approve promotion of the Appellant even from BS17 to BS18  | -do-             | 81-83 |
| 29 | 10.01.2018 | The Appellant for the 4 <sup>th</sup> time approached the Service Tribunal through S.A. No. 43/2018 for promotion to BS18 w.e.f 08.02.2003 & to BS 19 w.e.f 31.12.2008 mentioned in the memo page 91 under para 19.  | N                | 84-93 |
| 30 | 29.10.2018 | Rejoinder submitted by the Appellant on the respondents comments.  | -do-             | 94-98 |

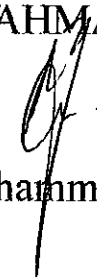
|    |  |  |                  |         |
|----|--|--|------------------|---------|
|    | 17.01.2020                               | Partially acceptance of the appeal of the Appellant mentioned @S.No. 29 above by the Service Tribunal ordering that all the Previous decisions of the Tribunal should be considered. Also in this decision on page 100, Para (2), it has clearly been discussed that the Appellant is pleading for his promotions, to BS 18 w.e.f 08.02.2003 & to BS19 w.e.f 31.12.2008  | N<br>(Continued) | 99-105  |
| 32 | 05.08.2021                               | The PSB though promoted the Appellant from BS17 to 18 but instead of promotion from 08.02.2003 gave promotion from 09.06.2010 i.e one day before retirement i.e without all back benefits which Juniors enjoyed from 08.02.2003 in BS 18 and then from 31.12.2008 in BS 19   | O                | 106     |
| 33 | 23.08.2021                               | The Appellant approached the Service Tribunal for proper implementation of its all three judgements (19.01.2012, 19.10.2016, 17.01.2020) as ordered in the last judgement to consider all the judgements and to promote the Appellant to BS 18 w.e.f 08.02.2003 instead of 09.06.2010 given by PSB & BS 19 w.e.f 31.12.2008.   | P                | 107-115 |
| 34 | 22.09.2023<br>(09.12.2020<br>31.07.2021) | The Deptt & PSB denied to give promotion to the Appellant to BS 18 w.e.f 08.02.2003 and insisted that promotion given from 09.06.2010 i.e one day before retirement has been given and as such order of Service Tribunal stands implemented.   | -do-             | 116-119 |
| 35 | 01.11.2023                               | The Service Tribunal on one side has admitted that the Appellant is pleading for promotion to BS 18 w.e.f 08.02.2003 through appeal No 598/2003 but on other hand saying that the PSB has obeyed the Tribunal and has promoted the Appellant to BS 18 w.e.f 09.06.2010, had filed / consigned the Implementation Appeal of the Appellant instead of issuing order to the respondents to promote the Appellant to BS 18 w.e.f 08.02.2003 instead of 09.06.2010. | R                | 120-121 |

|    |  |   |      |         |
|----|--|---|------|---------|
| 36 | (18.11.2023<br>16.01.2024)                   | The Appellant approached the High Court with W.P No. 5332/2023. The High Court ordered the respondents dated 16.01.2024 to consider the writ as departmental representation and directed the respondents for its decision.                                    | S    | 122-124 |
| 37 | 24.01.2024                                   | The above mentioned order of the High Court was sent to Chief-Secretary by Deputy Registrar Peshawar High Court.  | -do- | 125     |
| 38 | 01.02.2024                                   | The Establishment Deptt sent the said order of High Court to the Secretary C&W.   | -do- | 126     |
| 39 | 2000 SCMR-645.<br><br>2008 PLC - (C.S) 1019. | Both contains orders that due to pending inquiries or minor penalties no officer should be left un-promoted. But the Appellant was left un-promoted due to pending inquiries & minor penalties for six times as mentioned in the memo of this appeal page – 8 | T    | 127-133 |
|    |  | Wakalat Nama  |      | 134     |

  
APPELLANT

NAZIR AHMAD KHAN

Through

  
Noor Muhammad Khattak

Advocate



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

Service Appeal No:- 607 /2024

Mr. Nazir Ahmad Khan, Deputy Director (Retired)  
C&W Department, District Chitral

.....Appellant

**VERSUS**

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Secretary Establishment, Govt: of Khyber Pakhtunkhwa, Peshawar.
3. Secretary C&W Department, Govt: of Khyber Pakhtunkhwa, Peshawar

.....RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 FOR GRANTING PROFORMA PROMOTION TO THE APPELLANT FROM BS-17 TO BS-18 W.E.F 08/02/2003 WITH ALL BACK BENEFITS WHILE THE RESPONDENTS HAVE GIVEN THE SAME PROMOTION W.E.F 09/06/2010 (ONE DAY BEFORE RETIREMENT VIDE ORDER DATED 05/08/2021) INSTEAD OF 08/02/2003 (DATE THE JUNIORS WERE PROMOTED WHICH WAS CHALLENGED BY THE APPELLANT ON 24/06/2003 THROUGH NO 598/2003 BEFORE THIS HONOURABLE TRIBUNAL) ALSO TO GRANT PROMOTION FROM BS-18 TO BS-19 W.E.F 31/12/2008 WITH ALL BACK BENEFITS (DATE OF JUNIORS WERE FURTHER MOVED TO FURTHER HIGHER).**

**Prayer:**

**That on acceptance of this Service Appeal, the inaction and action of the respondents by issuing the impugned Notification dated 05.08.2021 whereby the**

appellant was granted promotion to BPS-18 w.e.f 09.06.2010 instead of w.e.f 08.02.2003 and not granting subsequent proforma promotion to BPS-19 w.e.f 31.12.2008 may kindly be declared as illegal, unconstitutional and ineffective upon the rights of the appellant and the same may please be modified/ rectified. That the respondents may please be directed to grant pro-forma promotion to the appellant to BPS-18 w.e.f 08.02.2003 instead of the given w.e.f 09.06.2010 and subsequent promotion to BPS-19 w.e.f 31.12.2008 with all back benefits. Any other remedy which this august tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

**Brief facts giving rise to the present appeal are as under:**

1. That the Appellant was the employee of the respondent Department and had served the respondent Department till his superannuation.

Copy annexed as annexure.....A

2. That as per seniority list of Assistant Engineers (BPS-17) for the year 01.06.2002 the appellant was at the top of the seniority list and was eligible for promotion to the post of BPS-18.

Copy is annexed as annexure.....B

3. That meeting of the Provincial Selection Board (PSB) was constituted on 28.11.2002 but in the said meeting the Appellant was superseded saying that the behavior of the appellant is not good with his seniors and an inquiry is pending against the Appellant while (20) juniors were promoted.

Relevant copies annexed as annexure.....C

4. That on 16.05.2003 result of the said inquiry against the appellant came out imposing minor penalty of withholding of three increments for three years plus censure.

Copy is annexed as annexure.....D

5. That on 24.06.2003 the appellant challenged the said ibid minutes of the PSB and the promotion of the said (20) juniors through service appeal No. 598/2003 in Service Tribunal Peshawar.

Copy is annexed as annexure.....E

6. That the 2000 SCMR 645 is self explanatory not to with hold promotions on the basis of pending inquiries and minor Penalties.

Copy is annexed as annexure.....F

7. That again the PSB in its meeting on 08.11.2004 did not promote the Appellant due to the minor Penalties while (30) more juniors were promoted from BPS 17 to 18.

Relevant copies annexed as annexure.....G

8. That on 05.05.2005 the appellant received letter from the department that the appeal of the Appellant was accepted by the Chief Minister for remission of minor Penalties and as well as for promotion with the condition that the Appellant will with draw his appeal in Service Tribunal. The Appellant conditionally withdrawn his appeal on 07.05.2005 from Service Tribunal that if the Government did not solve his problems he will again approach the Tribunal. The minor Penalties were withdrawn by the Department with immediate effect on 09.06.2005 but promotion was delayed by unknown reasons, in spite of Chief Minster's said order.

Relevant copies annexed as annexure.....H

9. That again on 12.07.2005 the PSB in its meeting did not promote the Appellant in spite of the accepted appeal of the Appellant by the Chief Minister to promote the appellant and in spite of no penalties no inquiry against the appellant as mentioned above in Para (8). The PSB astonishingly took the Position of lame excuse that inquiry against the Appellant has been initiated while on ground there was still nothing of such nature / possibility.

Copy is annexed as annexure..... I

10. That on 31.12.2008 the juniors to the appellant previously promoted from BS 17 to 18 was moved over to BS 19.

Relevant copies annexed as annexure.....j

11. That being disappointed, the Appellant again moved appeal / application to the authorities but on 30.09.2009 the Department wrote a letter to the Appellant that the PSB has issued an order to keep the promotion of the appellant as pending. At this situation the appellant realized that there is /are some person / persons who want continuous roll to keep the appellant deprived. Hence the Appellant again approached the service Tribunal with Appeal No. 1758/2009 which was decided in favour of the Appellant accepting the appeal on 19.01.2012.

Relevant copies annexed as annexure.....K

12. The Government challenged the same in Supreme Court which was dismissed on 17.01.2013. The PSB again did not promote the appellant saying "Not Suitable for Promotion".

Relevant copies annexed as annexure..... L

13. The appellant again approached the Service Tribunal through Service Appeal No 1608 / 2013 which was decided on

19.10.2016 accepting the appeal. The Government did not go to Supreme Court but still in its meeting on 25.09.2017 the PSB did not promote the Appellant.

Relevant copies annexed as annexure.....M

14. The Appellant again approached the service Tribunal through Service Appeal No. 43/2018 which was partially accepted on 17.01.2020. The Government did not challenged it in Supreme Court.

Relevant copies annexed as annexure.....N

15. That the PSB in meeting on 31.07.2021 promoted the Appellant from BS 17 to 18 w.e.f 09.06.2010 (one day before retirement) instead of promotion from BPS 17 to 18 w.e.f 08.02.2003 with all back benefits.

Copy is annexed as annexure..... O

16. That the appellant filed Implementation Petition No 151/2021 in service Tribunal for proper execution / Promotion according to due date while Juniors were promoted i.e. BPS-17 to BPS-18 w.e.f. 08.02.2003 and BPS 18 to BPS-19 w.e.f 31.12.2008 with all back benefits (instead of the said promotion given by PSB w.e.f 09.06.2010, one day before retirement). The PSB submitted report in service Tribunal saying that the appellant has been promoted as such not turned towards any amendment.

Relevant copies annexed as annexure..... P

17. That the Tribunal on 01.11.2023 after admitting that the appellant is pleading his promotion case from 28.11.2002 through service appeal No. 598/2003 but filed / consigned the implementation petition, not going deeply through the

judgments of the Tribunal dated 19.01.2012, 19.10.2016, 17.01.2020. In the memo of every appeal by the Appellant it has clearly been mentioned to grant him promotions from BPS 17 to 18 w.e.f 08.02.2003 & BPS 18 to 19 w.e.f 31.12.2008. Also in all the three judgments mentioned above, the said due dates have been discussed and appeals accepted meaning that promotions should be from the said due dates. In the last judgment of the Tribunal dated 17.01.2020 on page (1) & (2), it has clearly been discussed that the due dates for promotion of the Appellant for promotion are w.e.f 08.02.2003 for BPS 17 to 18 & w.e.f 31.12.2008 for BPS 18 to 19.

Copy is annexed as annexure..... R

18. That the appellant filed a Writ Petition No 5332-P/2023 before the august Peshawar High Court, Peshawar, wherein the Honourable Peshawar High Court, Peshawar vide order dated 16/01/2024 treated the same as departmental representation and sent the writ Petition file to the respondents.

Relevant copies annexed as annexure..... S

- 19. That since there is no result/decision by the respondents with respect to the said High Court Order dated 16.01.2024 even after lapse of (90) days. Hence the appellant having no other alternate and efficacious remedy, except to approach this Honourable tribunal by filing the instant service appeal on the following grounds amongst others:-**

**GROUNDS:-**

- A. That the impugned inaction and action of the respondents by not promoting the appellant to BPS-18 w.e.f 08.02.2003 and subsequent promotion to BPS-19 w.e.f 31.12.2008 is against the law, facts, norms of natural justice and materials on the record.
- B. That the impugned action and inaction of the respondents is also against the violation of fundamental rights, which are guaranteed by the Constitution of Pakistan, 1973 and other laws of the country.
- C. That appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- D. That the respondents acted in arbitrary and malafide manner by not promoting the appellant to BPS -18 w.e.f 08.02.2003 and subsequent promotion to BPS-19 w.e.f 31.12.2008 with all back benefits.
- E. That the treatment meted out to the appellant is a clear violation of the fundamental rights of the appellants.
- F. That the appellant has been discriminated by the respondents on the subject noted above and as such the respondents violated the principle of natural justice.
- G. That the (2000 SCMR 645) & 2008 PLC (C.S) 1019 contain clear orders not to keep any officer un-promoted making the excuse

of minor penalties and pending inquiries but the appellant has been left un-promoted in each of the following PSB's making the excuse of minor penalties and pending inquiries.

- |      |               |                         |
|------|---------------|-------------------------|
| i.   | <b>PSB On</b> | 28.11.2002              |
| ii.  | .....do.....  | 08.11.2004              |
| iii. | .....do.....  | 12.07.2005              |
| iv.  | .....do.....  | 12.11.2009              |
| v.   | .....do.....  | 29.12.2009              |
| vi.  | .....do.....  | 25.03.2010 / 05.04.2010 |

Relevant copies annexed as annexure..... T

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

Dated: 29-04-2024

**APPELLANT**

**THROUGH:**

**NOOR MUHAMMAD KHATTAK**  
**ADVOCATE SUPREME COURT**

**UMAR FAROOQ MOHMAND**

**WALEED ADNAN**

**MAHMOOD JAN**

**ADVOCATES HIGH COURT**



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

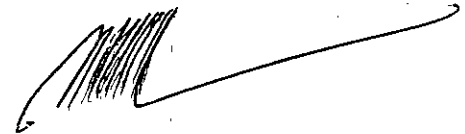
NAZIR AHMAD

VS

C & W DEPTT:

**CERTIFICATE:**

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



**DEPONENT**

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

NAZIR AHMAD

VS

C & W DEPTT:

**AFFIDAVIT**

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



DEPONENT

**ATTESTED**  
AZMAT ALI ADVER  
Nuzari P...  
Judicial Complex Peshawar  
17-04-24

# Annexure "A"

(11)

## GOVT OF KHYBER PAKHTUNKHWA COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the June 07, 2010

### NOTIFICATION

No.SOE/C&WD/1-6/78(Vol-II): In terms of Section-13 of the Khyber Pakhtunkhwa Civil Servants Act 1973, Engr. Nazir Ahmad, Assistant Engineer (BS-17) C&W Department, presently posted as Executive Engineer C&W Division Chitral (OPS), shall stand retired from Govt service on 10.06.2010 (AN) on attaining the age of superannuation i.e. 60-years, as date of birth according his record is 11.06.1950.

SECRETARY TO GOVT. OF  
KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPTT

Endst: No. and date even

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. All Chief Engineer C&W Peshawar.
3. Superintending Engineer C&W Circle, Dir Lower at Timergara
4. Executive Engineer C&W Divison Chitral
5. District Accounts Officer Chitral
6. Incharge Computer Cell, C&W Department, Peshawar.
7. PS to Secretary, C&W Department.
8. Officer concerned.
9. Office order File/Personal File.

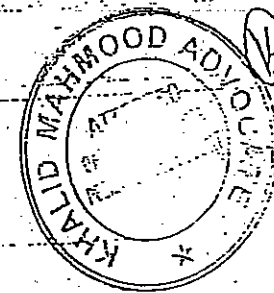
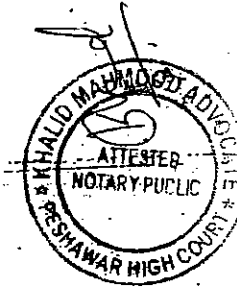
  
( RAHIM BADSHAH )  
SECTION OFFICER (ESTT)

12

Works & Services Department

Seniority List of Assistant Engineer as on 01.06.2002

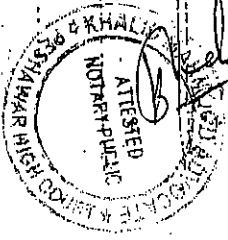
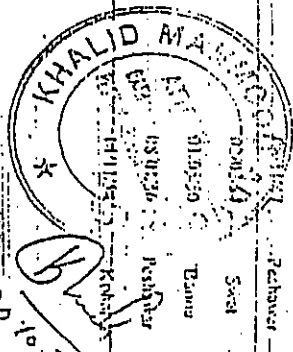
| Seniority No. | Name                 | Academic Qualification | Date of Birth | Domicile        | Date of 1st Entry in Govt. Service | Date of Appointment/Promotion in Present Grade | Remarks  |
|---------------|----------------------|------------------------|---------------|-----------------|------------------------------------|--|--|
| (1)           | (2)                  | (3)                    | (4)           | (5)             | (6)                                | (7)  | (8)  |
| 1             | Nazeer Ahmad Khan    | B.E. (Civil)           | 11/06/50      | Chitral         | 22/11/78                           | 31/10/78                                       |  |
| 2             | Mohammad Hanayun     | B.E. (Civil)           | 15/11/50      | Chitral         | 31/10/78                           | 31/10/78                                       |  |
| 3             | Feroze Shah          | B.E. (Civil)           | 01/03/50      | Local Agency    | 31/10/78                           | 31/10/78                                       |  |
| 4             | Amrullah Khan        | B.E. (Civil)           | 08/08/49      | Mardan (T.F. 1) | 19/11/78                           | 15/11/78                                       |  |
| 5             | Mohammad Gul         | B.E. (Civil)           | 24/02/43      | Kohat (FR)      | 31/10/78                           | 31/10/78                                       |  |
| 6             | Ghulam Daud          | B.E. (Civil)           | 10/11/49      | Peshawar        | 31/10/78                           | 31/10/78                                       |  |
| 7             | Tazirullah           | B.E. (Civil)           | 24/05/48      | Dir             | 04/11/78                           | 04/11/78                                       |  |
| 8             | Muhammad Farooq      | B.E. (Civil)           | 26/02/46      | D.I. Khan       | 07/01/74                           | 28/11/78                                       | Served as Graduate Sub Engineer w.e.f. 07/01/74 to 27/11/78. |
| 9             | Muhammad Alam        | B.E. (Civil)           | 10/11/48      | N.W. Agency     | 07/01/74                           | 17/07/79                                       | Served as Graduate Sub Engineer w.e.f. 07/01/74 to 16/07/79. |
| 10            | Saeed Rehman         | B.E. (Civil)           | 02/12/49      | Muzaffargarh    | 09/09/79                           | 09/09/79                                       |  |
| 11            | Hidayatullah         | M.S. (Civil)           | 07/12/52      | Bannu           | 09/09/79                           | 09/09/79                                       |  |
| 12            | Shah Shah            | B.E. (Civil)           | 01/03/50      | Swat            | 22/09/79                           | 22/09/79                                       |  |
| 13            | Shafiq Ahmad         | B.E. (Mechanical)      | 09/07/55      | Peshawar        | 09/09/79                           | 09/09/79                                       |  |
| 14            | Zard Ali Khan        | B.E. (Civil)           | 21/05/55      | Peshawar        | 09/09/79                           | 09/09/79                                       |  |
| 15            | Abdul Hafeez Sohal   | B.E. (Civil)           | 21/05/57      | Peshawar        | 09/09/79                           | 09/09/79                                       |  |
| 16            | Imdad Hussain Dargah | B.E. (Civil)           | 02/02/52      | Kurram Agency   | 22/09/79                           | 22/09/79                                       |  |
| 17            | Muhammad Ijaz        | B.E. (Civil)           | 07/05/54      | Mardan          | 09/09/79                           | 09/09/79                                       |  |
| 18            | Zameer Alan          | B.E. (Civil)           | 13/01/50      | Swat            | 09/09/79                           | 09/09/79                                       |  |
| 19            | Imdad Hussain Dargah | B.E. (Civil)           | 02/02/52      | Abdistan        | 09/09/79                           | 09/09/79                                       |  |



Annexure B

Priority List of Assistant Engineer as on 01.06.2082

| Seniority No. | Name                    | Academic Qualification | Date of Birth | Domicile       | Date of List          | Date of Appointment      | Remarks |
|---------------|-------------------------|------------------------|---------------|----------------|-----------------------|--------------------------|---------|
|               |                         |                        |               |                | Engg. In Govt Service | Present in Present Grade |         |
| 1             | (1) (2) (3) (4) (5) (6) |                        |               |                |                       |                          |         |
| 21            | Abdul Majid Khan        | B.E. (Civil)           | 20/10/42      | Kohat          | 05/09/79              | 09/09/79                 |         |
| 22            | Abdur Razzaq Khan       | B.E. (Civil)           | 01/10/50      | Bannu          | 05/09/79              | 09/09/79                 |         |
| 23            | Muhammad Ali            | B.E. (Civil)           | 05/05/50      | Mardan         | 23/09/79              | 23/09/79                 |         |
| 24            | Suhail Bin Qayum        | B.E. (Civil)           | 06/03/55      | Peshawar       | 04/09/79              | 09/09/79                 |         |
| 25            | Muhammad Ashraf Khan    | B.E. (Mechanical)      | 01/09/54      | Mardan         | 09/09/79              | 09/09/79                 |         |
| 26            | Abdul Samir Khan        | B.E. (Civil)           | 14/11/51      | Kohat          | 06/09/79              | 09/09/79                 |         |
| 27            | Faiz Muhammad Jan       | B.E. (Civil)           | 01/10/75      | Bejair Agency  | 23/09/79              | 23/09/79                 |         |
| 28            | Imran                   | B.E. (Civil)           | 31/03/46      | Mohmand Agency | 28/09/79              | 24/09/79                 |         |
| 29            | Kiraj Hussain           | B.E. (Civil)           | 02/03/46      | Kunran Agency  | 04/09/79              | 09/09/79                 |         |
| 30            | Wazir Ahmad Malik       | B.E. (Civil)           | 14/01/55      | Mancha         | 05/09/79              | 09/09/79                 |         |
| 31            | Abbas Saeed Usmani      | B.E. (Civil)           | 07/01/53      | Abbottabad     | 05/09/79              | 09/09/79                 |         |
| 32            | Syed Saad Ullah         | B.E. (Civil)           | 01/01/53      | Chitral        | 24/11/79              | 24/11/79                 |         |
| 33            | Qasim                   | B.E. (Civil)           | 02/01/57      | Abbottabad     | 01/10/79              | 01/10/79                 |         |
| 34            | Muhammad Khalid Shah    | B.E. (Civil)           | 05/10/58      | Mardan         | 12/09/79              | 18/09/80                 |         |
| 35            | Abdul Samad Khan        | B.E. (Mechanical)      | 05/09/52      | H.W. Agency    | 28/09/79              | 31/09/80                 |         |
| 36            | Muhammad Adnan Khan     | B.E. (Civil)           | 02/01/54      | Peshawar       | 12/11/79              | 12/11/81                 |         |
| 37            | Asif Iqbal              | B.E. (Civil)           | 02/01/54      | Swat           | 12/11/81              | 12/11/81                 |         |
| 38            | Asif Hussain Shah       | B.E. (Civil)           | 01/09/50      | Bannu          | 12/11/81              | 23/11/81                 |         |
| 39            | Shamshad Zaman          | B.E. (Civil)           | 08/03/56      | Peshawar       | 12/11/81              | 23/11/81                 |         |
| 40            | Faiz Muhammad           | B.E. (Civil)           | 14/01/53      | Kohat          | 14/09/81              | 14/09/81                 |         |

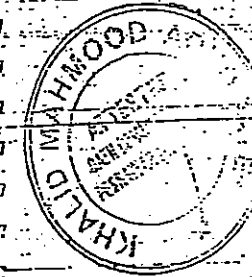


14

Seniority List of Assistant Engineers as on 01.06.2002

| Seniority No. | Name                | Academic Qualification | Date of Birth | Domicile       | Date of 1st Entry in Govt. Service | Date of Appointment/Promotion in Present Grade | Remarks  |
|---------------|---------------------|------------------------|---------------|----------------|------------------------------------|--|--|
| (1)           | (2)                 | (3)                    | (4)           | (5)            | (6)                                | (7)  |  |
| 41            | Javed Iqbal         | B.E. (Civil)           | 01/04/49      | Kurram Agency  | 15/12/81                           | 15/12/81                                       |  |
| 42            | Javed Iqbal         | B.E. (Civil)           | 21/02/55      | Mardan         | 15/12/81                           | 15/12/81                                       |  |
| 43            | Sajid Kabir         | B.E. (Civil)           | 28/04/50      | Fakirana       | 15/12/81                           | 15/12/81                                       |  |
| 44            | Sherullah Khan      | B.E. (Civil)           | 27/04/50      | Fakirana       | 18/04/83                           | 18/04/83                                       |  |
| 45            | Sahenzob Khan       | B.E. (Civil)           | 30/03/54      | F.R. Zamra     | 18/04/83                           | 18/04/83                                       |  |
| 46            | Saifur Rehman       | B.E. (Civil)           | 05/10/55      | D.I. Khan      | 18/04/83                           | 18/04/83                                       |  |
| 47            | Fazman Ali-II       | B.E. (Civil)           | 02/04/54      | Swat           | 18/04/83                           | 18/04/83                                       |  |
| 48            | Muhammad Asif       | B.E. (Civil)           | 25/12/57      | Mohmand Agency | 18/04/83                           | 18/04/83                                       |  |
| 49            | Kfir Wali           | B.E. (Civil)           | 04/01/60      | N.W. Agency    | 20/04/84                           | 23/11/85                                       | Served as Graduate Sub Engineer w.c.f. 20/04/84 to 27/11/85. |
| 50            | Zareed Khan         | B.E. (Civil)           | 06/01/50      | N.W. Agency    | 14/12/74                           | 23/11/85                                       | Served as Graduate Sub Engineer w.c.f. 14/12/74 to 27/11/85. |
| 51            | Aslam Khan          | B.E. (Civil)           | 03/04/56      | FR Bannu       | 11/11/85                           | 11/11/85                                       |  |
| 52            | Shah Jehan          | B.E. (Civil)           | 22/03/58      | Mardan         | 11/11/85                           | 11/11/85                                       |  |
| 53            | Muhammad Pervez     | B.E. (Civil)           | 10/08/58      | Abbottabad     | 11/11/85                           | 11/11/85                                       | Long Leave   |
| 54            | Abdul Saeed         | Diploma (Civil)        | 03/11/45      | Faisalabad     | 24/11/65                           | 27/01/87                                       |  |
| 55            | Saadatullah         | BE (Civil)             | 28/01/62      | Kohat          | 01/06/87                           | 01/06/87                                       |  |
| 56            | Mehrezand           | BE (Civil)             | 11/03/62      | Peshawar       | 01/06/87                           | 01/06/87                                       |  |
| 57            | Niamatullah Barochi | BE (Civil) MSc (Engg)  | 28/04/60      | Bannu          | 01/06/87                           | 01/06/87                                       |  |
| 58            | Abdul Basfir        | BE (Civil)             | 20/04/60      | Mardan         | 01/06/87                           | 01/06/87                                       |  |
| 59            | Rehmat Ali          | BE (Civil)             | 01/04/59      | Karok          | 01/06/87                           | 01/06/87                                       |  |
| 60            | Sher Aslam          | BE (Civil)             | 25/12/60      | Bannu          | 01/06/87                           | 01/06/87                                       |  |

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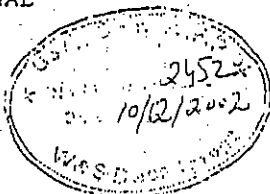


20/10/2009

Annexure "C"

15

CONFIDENTIAL  
IMMEDIATE



GOVERNMENT OF NWFP  
ESTABLISHMENT DEPARTMENT

NO.SO(PSB)ED/1(3)/2002/P-4  
Dated Peshawar, the 9/12/2002

To

The Secretary to Government of NWFP,  
Works and Services Department

SUBJECT: - MINUTES OF THE MEETING OF PROVINCIAL SELECTION BOARD HELD ON 28.11.2002

PROMOTION OF ENGINEERS FROM BPS-17 TO BPS-18

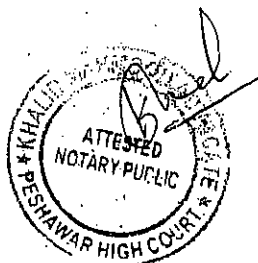
Dear Sir,

I am directed to refer to your department letter No.SOE-I/W&S/4-5/72 dated 21.11.2002 on the subject noted above and to forward herewith an extract of item No.1 of the minutes/recommendations of the meeting of Provincial Selection Board held on 28.11.2002 for further necessary action/obtaining approval of the Competent Authority.

Yours faithfully

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

Encl: As Above



CONFIDENTIAL

ITEM NO.1

WORKS AND SERVICES DEPARTMENT

SUBJECT: - PROMOTION OF ENGINEERS FROM BPS-17 TO BPS-18

1. The Secretary Works and Services Department apprised the Board that 16 post in BPS-18 for promotions are available. Besides 4 posts are likely to occur due to retirement of present incumbent in December 2002 and February 2003. The Board was further informed that all mechanical equipments have been handed over to Abasin Construction Company and the Mechanical units of the department have been disbanded. For the purposes of smooth and desired functioning of the firm, the department needs an officer to have a vigilant supervisory watch over it. One BS-18 Engineer (Mechanical) is therefore required to be assigned this job. A post of Mechanical Engineer (BS-18) in the PC-I shall be included as a work charged employee of the department to be paid out of the development budget. The post is required to be filled in accordance with the Establishment and Administration Department Notification NO.SORI(S&GAD)/1-12/74 dated 13.1.1980 reproduced below: -

"By selection on merit with due regard to seniority, from amongst the Assistant Directors/Assistant District Officers/Assistant Design Engineers/Assistant Engineers or holder of equivalent posts (BS-17), with at least 5 years of service as such but according to Establishment Department Notification NO.SORI(E&AD)1-29/75 (VOL-IV) dated 1.9.2001 the provincial government has decided that all promotions except grant of BS-21 in meritorious services will be considered on the basis of seniority cum fitness.

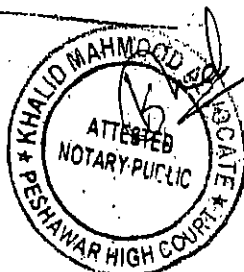
2. The service record of the officers included in the panel is discussed below: -

| S.NO | NAME OF OFFICER                    | RECOMMENDATIONS OF THE BOARD  |
|------|------------------------------------|---|
| 1    | Mr.Nazir Ahmad Khan<br>B.E(Civil)  | His date of birth is 11.6.1950. He is B.E(Civil). He joined Government service on 31.10.1978. His service record up to 2001 is generally good.<br><br>The Board was informed that his performance and general reputation are not upto the marks. His behaviour with seniors is also not desirable. Besides he is involved in an enquiry regarding irregularities in the planning/execution of the Project feasibility study and construction of RCC bridge over Yarkkhon river at Chitral. The Administrative Secretary did not recommend him for promotion.<br><br>The Board, therefore, recommended his supersession for promotion to BPS-18. |
| 2    | Mr.Muhammad Hamayun<br>B.E (Civil) | His date of birth is 14.11.1953. He is B.E(Civil). He joined Government service on 31.10.1978. His service record up to 2001 is generally good.<br><br>The Board observed that the NAB has arrested the officer on 26.12.2001 on the charges of corruption and corrupt practices under the NAB Ordinance 1999. The officer is still under the custody of NAB.<br><br>The Board, therefore, recommended to defer his promotion till the finalization of the case.  |





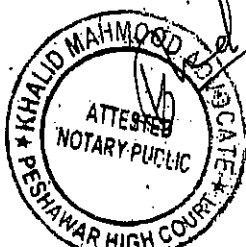
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|---|------------------------------------|---|
| 3 | Mr. Attaullah Khan<br>B.E (Civil)  | His date of birth is 8.6.1948. He is B.E (Civil). He joined Government service on 19.11.1978. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for promotion to BPS-18 on regular basis subject to the condition that ground report on him is not adverse.  |
| 4 | Mr. Tabiullah<br>B.E (Civil)       | His date of birth is 24.8.1948. He is B.E (Civil). He joined Government service on 4.11.1978. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for promotion to BPS-18 on regular basis subject to the condition that ground report on him is not adverse.  |
| 5 | Mr. Khalid Shah<br>B.E (Civil)     | His date of birth is 1.2.1953. He is B.E (Civil). He joined Government service on 31.10.1978. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for promotion to BPS-18 on regular basis subject to the conditions that ground report on him and that his ACR for the year 1998 are not adverse.                       |
| 6 | Mr. Muhammad Gil<br>B.E (Civil)    | His date of birth is 26.6.1948. He is B.E (Civil). He joined Government service on 31.10.1978. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for promotion to BPS-18 on regular basis subject to the condition that ground report on him and that his ACR for the year 1994 are not adverse.                       |
| 7 | Mr. Ghulam Daud<br>B.E (Civil)     | His date of birth is 10.11.1949. He is B.E (Civil). He joined Government service on 31.10.1978. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for promotion to BPS-18 on regular basis subject to the condition that ground report on him is not adverse.  |
| 8 | Mr. Muhammad Farooq<br>B.E (Civil) | His date of birth is 26.8.1946. He is B.E (Civil). He joined Government service on 7.1.1974. He was appointed as Assistant Engineer BS-17 on 28.11.1978. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for promotion to BPS-18 on regular basis subject to the condition that ground report on him is not adverse. |
| 9 | Mr. Mushke-Alam<br>B.E (Civil)     | His date of birth is 10.11.1948. He is B.E (Civil). He joined Government service on 7.1.1974. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for promotion to BPS-18 on regular basis subject to the condition that ground report on him is not adverse.  |



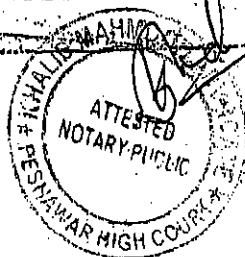
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|    |                                      |  |
|----|--------------------------------------|--|
| 10 | Mr.Saeed ur Rehman<br>B.E(Civil)     | His date of birth is 2.12.1949. He is B.E(Civil). He joined Government service on 9.9.1979. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for promotion to BPS-18 on regular basis subject to the condition that ground report on him is not adverse.   |
| 11 | Mr.Hidayatullah<br>B.E (Civil)       | His date of birth is 7.12.1952. He is B.E(Civil). He joined Government service on 9.9.1979. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for promotion to BPS-18 on regular basis subject to the condition that ground report on him is not adverse.   |
| 12 | Mr.Sher Shah<br>B.E(Civil)           | His date of birth is 1.3.1950. He is B.E(Civil). He joined Government service on 22.9.1979.<br><br>The Board was informed that the officer has been arrested on 26.12.2001 by the NAB on the charges of corruption and corrupt practices under the NAB Ordinance 1999. He is also involved in an inquiry regarding construction of road from Carora to Chakaisar District.Swat.<br><br>The Board, therefore, recommended to defer his promotion till the finalization of the case. |
| 13 | Mr.Shafiq Ahmad B.E (Mechanical)     | His date of birth is 9.2.1955. He is B.E(Mechanical). He joined Government service on 9.9.1979.<br><br>The Board was informed that the officer is involved in Draft Para No.793 C&W Division Kohistan.<br><br>The Board, therefore, recommended to defer his promotion till the finalization of the case.  |
| 14 | Mr.Zard Ali Khan<br>B.E(Civil)       | His date of birth is 21.6.1955. He is B.E(Civil). He joined Government service on 31.10.1978.<br><br>The Administrative Secretary informed the Board that the officer has been kept under observations and his case may be considered after he earns ACR for the year 2002.<br><br>The Board, therefore, recommended to defer his promotion till he earns ACR for the year 2002.   |
| 15 | Mr.Abdul Hafeez Saval<br>B.E (Civil) | His date of birth is 21.8.1957. He is B.E(Civil). He joined Government service on 9.9.1979.<br><br>The Board was informed that the officer has been arrested on 26.12.2001 by the NAB on the charges of corruption and corrupt practices under the NAB Ordinance 1999. He is also involved in an inquiry regarding an open inquiry No.38/2001 PS ACE Timergara.<br><br>The Board, therefore, recommended to defer his promotion till the finalization of the case.                 |

Section Officer (P-30)  
Government of S.W.F.P.  
Establishment Deptt



|    |   |  |
|----|---|--|
| 16 | Mr. Imdad Hussain Bangash<br>B.E (Civil)  | His date of birth is 2.2.1952. He is B.E(Civil). He joined Government service on 22.9.1979.<br><br>The Board was informed that general reputation of the officer is poor. His performance is also not upto the mark. The Administrative Secretary did not recommend him for promotion.<br><br>The Board, therefore, recommended his supersession for promotion to BPS-18.  |
| 17 | Mr. Muhammad Ijaz<br>B.E (Civil)          | His date of birth is 7.5.1958. He is B.E(Civil). He joined Government service on 9.9.1979.<br><br>The Board was informed that the officer has been arrested by the NAB on the charges of corruption and corrupt practices under the NAB Ordinance 1999.<br><br>The Board, therefore, recommended to defer his promotion till the finalization of the case.   |
| 18 | Mr. Javed Ahmad Turk<br>B.E(Civil)        | His date of birth is 15.2.1955. He is B.E(Civil). He joined Government service on 9.9.1979.<br><br>The Board was informed that reconsideration of departmental proceeding in a case regarding lease of land is under process against him.<br><br>The Board, therefore, recommended to defer his promotion till the finalization of the case.   |
| 19 | Mr. Muhammad Ashraf Khan-I<br>B.E (Civil) | His date of birth is 5.8.1949. He is B.E(Civil). He joined Government service on 9.9.1979.<br><br>The Board was informed that ground field back of the officer is adverse. Besides he enjoys a bad reputation. His ACRs for the years 1995, 1996, 1999 and 2000 were also not available. The Administrative Secretary did not recommend him for promotion.<br><br>The Board, therefore, recommended his supersession for promotion to BPS-18.            |
| 20 | Mr. Abdul Majid Khan<br>B.E (Civil)       | His date of birth is 20.10.1948. He is B.E(Civil). He joined Government service on 9.9.1979<br><br>The Board was informed that ground field back of the officer is adverse. Besides he enjoys a bad reputation. The Administrative Secretary did not recommend him for promotion.<br><br>The Board, therefore, recommended his supersession for promotion to BPS-18.   |
| 21 | Mr. Abdur Razaq Khan<br>B.E (Civil)       | His date of birth is 1.1.1950. He is B.E(Civil). He joined Government service on 9.9.1979.<br><br>The Board was informed that a major penalty of "Reduction to the lower stage in time scale was imposed upon the officer. However, the Service Tribunal has set aside the penalty and remanded the case for a fresh inquiry, which is under process.<br><br>The Board, therefore, recommended to defer his promotion till the finalization of the case. |



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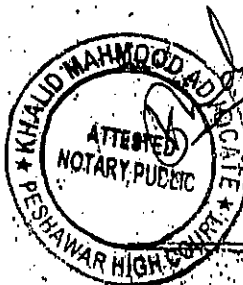
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|----|---|---|
| 22 | Mr. Murad Ali<br>B.E(Civil)                       | His date of birth is 5.5.1950. He is B.E(Civil). He joined Government service on 22.9.1979.<br><br>The Board was informed that the officer is involved in a draft para No.546 ( Building Division Battaram ).<br><br>The Board, therefore, recommended to defer his promotion till the finalization of the case.  |
| 23 | Mr. Saad Khan<br>Qayyum<br>B.E(Civil)             | His date of birth is 6.3.1953. He is B.E(Civil). He joined Government service on 9.9.1979.<br><br>The Board was informed that reconsideration of departmental proceeding in case regarding lease of land is under process against him.<br><br>The Board, therefore, recommended to defer his promotion till the finalization of the case.   |
| 24 | Mr. Muhammad<br>Ashraf Khan-II<br>B.E(Mechanical) | His date of birth is 1.9.1954. He is B.E(Civil). He joined Government service on 9.9.1979.<br><br>The Board was informed that the officer is involved in Advance Para No.463/98-99 C&W Division Mardan and Advance para No.461/98-99 C&W Division Mardan.<br><br>The Board, therefore, recommended to defer his promotion till the finalization of the case.  |
| 25 | Mr. Abdul Samin<br>Khan<br>B.E(Civil)             | His date of birth is 14.11.1951. He is B.E(Civil). He joined Government service on 9.9.1979. No enquiry is pending against him and no punishment has been awarded to him His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for appointment to BPS-18 on acting charge basis subject to the condition that ground report on him is not adverse   |
| 26 | Mr. Ismail<br>B.E (Civil)                         | His date of birth is 31.3.1946. He is B.E(Civil). He joined Government service on 24.9.1979. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for appointment to BPS-18 on acting charge basis subject to the condition that ground report on him is not adverse. |
| 27 | Mr. Fateh<br>Muhammad Jan<br>B.E(Civil)           | His date of birth is 1.7.1953. He is B.E(Civil). He joined Government service on 22.9.1979. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for appointment to BPS-18 on acting charge basis subject to the condition that ground report on him is not adverse.  |
| 28 | Mr. Kifayat<br>Hussain<br>B.E (Civil)             | His date of birth is 8.2.1946. He is B.E(Civil). He joined Government service on 9.9.1979. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for appointment to BPS-18 on acting charge basis subject to the condition that ground report on him is not adverse.   |

See  
Government of Punjab  
By Order of the Secretary  
10/11/2001

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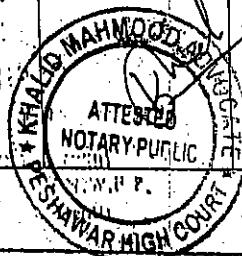
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|----|---|---|
| 29 | Mr Waqar Ahmad Malik<br>B.E(Civil)          | His date of birth is 11.2.1953. He is B.E(Civil). He joined Government service on 9.9.1979. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for appointment to BPS-18 on acting charge basis subject to the condition that ground report on him is not adverse.  |
| 30 | Mr. Abdul Saboor Usmani<br>B.E (Civil)      | His date of birth is 23.3.1953. He is B.E(Civil). He joined Government service on 9.9.1979. No enquiry is pending against him and no punishment has been awarded to him.<br><br>The Administrative Secretary informed the Board that his performance is not satisfactory. However he has been kept under observation for six months.<br><br>The Board, therefore, recommended to defer his promotion till he earns AGR for the year 2002.   |
| 31 | Syed Jalal ud Din<br>B.E (Civil)            | His date of birth is 12.9.1953. He is B.E(Civil). He joined Government service on 25.11.1979.<br><br>The Board noticed that the officer had been awarded a major penalty of reduction to the minimum of his pay scale. However he made a representation contended that the purchase of store was beyond his jurisdiction. He further stated that keeping in view the climatic condition of Chitral, the PAC in a similar advance, para No.48, 74 and 75 of the Audit Report for the year 1989-90 of the same Division has admitted that it was necessary for Chitral due to its weather condition and was in the public interest. Had the items not been procured the work would have suffered. The advance paras were therefore dropped.<br><br>The Board, therefore, recommended to defer his promotion till the decision of competent authority on his representation. |
| 32 | Mr. Ghulam Murtaza-I<br>B.E (Civil)         | His date of birth is 10.3.1947. He is B.E(Civil). He joined Government service on 1.1.1980.<br><br>The Administrative Secretary informed the Board that he is absent from duty and a disciplinary case is pending against him.<br><br>The Board, therefore, recommended to defer his promotion till the finalization of the disciplinary proceeding.  |
| 33 | Mr. Muhammad Khaliq Shah<br>B.E (Civil)     | His date of birth is 31.10.1950. He is B.E(Civil). He joined Government service on 18.5.1980. His service record up to 1999 is generally good.<br><br>The Board recommended that the officer may be cleared for appointment to BPS-18 on acting charge basis subject to the conditions that ground report on him and his ACRs for the years 2000 & 2001 are not adverse.  |
| 34 | Mr. Abdul Samad Khan<br>B.E<br>(Mechanical) | His date of birth is 5.7.1952. He is B.E(Civil). He joined Government service on 27.7.1980. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for appointment to BPS-18 against the work charge post in the Abasin Construction Company on acting charge basis subject to the condition that ground report on him is not adverse.  |



W.F.P.  
Secretary

## CONFIDENTIAL

|    |  |   |
|----|--|---|
| 35 | Mr. Muhammad Aslam Khan<br>B.E (Civil)   | His date of birth is 8.11.1947. He is B.E(Civil). He joined Government service on 12.11.1981. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for appointment to BPS-18 on acting charge basis subject to the condition that ground report on him is not adverse.  |
| 36 | Mr. Inayat ullah Khan-II,<br>B.E (Civil) | His date of birth is 5.4.1955. He is B.E(Civil). He joined Government service on 12.11.1981. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for appointment to BPS-18 on acting charge basis subject to the condition that ground report on him is not adverse.<br><br>Notification of his appointment to BPs-18 will be issued after occurrence of post i.e with effect from 22.12.2002. |
| 37 | Mr. Asif Iqbal<br>B.E (Civil)            | His date of birth is 2.2.1954. He is B.E(Civil). He joined Government service on 12.11.1981.<br><br>The Board was informed that there is certain complaints about his integrity which although could not be substantiated with proof but he was called for and advised to improve himself. He was therefore kept under observations for six months. His ACR for the year 2001 was also not available.<br><br>The Board, therefore, recommended to defer his promotion.  |
| 38 | Mr. Ashiq Hussain Shah<br>B.E (Civil)    | His date of birth is 1.5.1950. He is B.E(Civil). He joined Government service on 12.11.1981. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for appointment to BPS-18 on acting charge basis subject to the condition that ground report on him is not adverse.<br><br>Notification of his appointment to BPs-18 will be issued after occurrence of post i.e with effect from 1.1.2003.   |
| 39 | Mr. Shams uz Zaman<br>B.E (Civil)        | His date of birth is 8.1.1956. He is B.E(Civil). He joined Government service on 12.11.1981. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for appointment to BPS-18 on acting charge basis subject to the condition that ground report on him is not adverse.<br><br>Notification of his appointment to BPs-18 will be issued after occurrence of post i.e with effect from 15.2.2003.  |
| 40 | Mr. Faiz Muhammad<br>B.E (Civil)         | His date of birth is 14.11.1954. He is B.E(Civil). He joined Government service on 15.12.1981.<br><br>The Board was informed that a minor penalty of Censure and recovery of loss to the Government has been imposed on the officer. He has been kept under observations for a period of six month by the administrative department.<br><br>The Board, therefore, recommended to defer his promotion.   |



CONFIDENTIAL

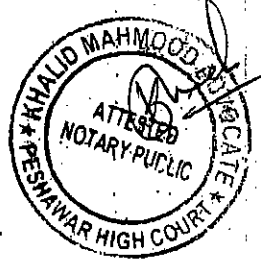
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|    |                                |  |
|----|--------------------------------|--|
| 41 | Mr. Shaukat Ali<br>B.E (Civil) | His date of birth is 1.4.1949. He is B.E(Civil). He joined Government service on 15.12.1981.<br><br>The Administrative Secretary informed the Board that in order to watch his performance/integrity he has been kept under observations for six months.<br><br>The Board, therefore, recommended to defer his promotion   |
| 42 | Mr. Javed Ihsan<br>B.E (Civil) | His date of birth is 21.2.1955. He is B.E(Civil). He joined Government service on 15.12.1981. No enquiry is pending against him and no punishment has been awarded to him. His service record up to 2001 is generally good.<br><br>The Board recommended that the officer may be cleared for appointment to DPS-18 on acting charge basis subject to the condition that ground report on him is not adverse.<br><br>Notification of his appointment to BPS-18 will be issued after occurrence of post i.e. with effect from 21.2.2003. |

*M. Javed*

*M. Javed*

Section Officer (PSB) &  
Government of N.W.F.P.  
Faisalabad District



Dated Peshawar, the 8<sup>th</sup> February 2003

Notification

1. No. SOE-IW&S/4-5/72. In consultation with the Provincial Selection Board, the competent authority, has been pleased to promote the following Assistant Engineers (BPS-17) of the Works & Services Department to the rank of Executive Engineer (BPS-18), with immediate effect:-

- (1) a. Mr. Attaullah Khan (4)
- (2) b. Mr. Tabiullah (7)
- (3) c. Mr. Muhammad Gul (5)
- (4) d. Mr. Ghulam Daud (6)
- (5) e. Mr. Muhammad Farooq (8)
- (6) f. Mr. Mushke Alam (9)
- (7) g. Mr. Saeed-ur-Rehman (10)
- (8) h. Mr. Hidayatullah (11)

2. The orders regarding postings/transfers of above officers will follow.

SECRETARY TO GOVT. OF NWFP  
WORKS & SERVICES DEPARTMENT

Dated Peshawar, the 8<sup>th</sup> February 2003

Encls. No. SOE-IW&S/4-5/72

Copy to the

- 1. Accountant General NWFP, Peshawar.
- 2. Secretary to Chief Minister NWFP.
- 3. PS to Chief Secretary NWFP.
- 4. PS to Secretary Works & Services Department.
- 5. PA to Additional Secretary Works & Services Department.
- 6. Chief Engineer Works & Services Peshawar.
- 7. Managing Director Frontier Highways Authority Peshawar.
- 8. Managing Director Abaseen Construction Corporation Peshawar.
- 9. All Deputy Secretaries/Section Officers in Works & Services Department.
- 10. All Directors/EDOs Works & Services in NWFP.
- 11. Manager, Govt. Printing Press Peshawar for publication in the next issue of Government Gazette.
- 12. Officers concerned.
- 13. Office Order/Personal files.

|                |    |
|----------------|----|
| C.E.W&S Deptt. | 17 |
| Diary No.      | 11 |
| Date           |    |
| Case No.       | 12 |
| C.E. W&S       | 13 |
| S.E. NO        |    |
| TC             |    |
| D.E (B)        |    |
| D.E (R)        |    |
| A.O            | ✓  |
| B&AO           |    |

*(Signature)*  
(MUHAMMAD ARBIB KHAN)  
SECTION OFFICER (ESTT-I)

*(Signature)*  
ATTESTED  
NOTARY PUBLIC  
KHALID MAHMOOD  
PESHAWAR HIGH COURT

KHALID MAHMOOD  
ATTENDING  
ENGINEER  
PESHAWAR

*(Signature)*  
20/02/03



24

BETTER COPY

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

Dated Peshawar the 8<sup>th</sup> February 2003

Notification

1. No.SOE-I/W&S/4-5/72. In consultation with the Provincial Selection Board, the competent authority has been pleased to promote the following Assistant Engineers (BPS-17) of the Works & Services Department to the rank of Executive Engineer (BPS-18) with immediate effect:-

- (1) a. / Mr. Attaullah Khan  
(2) b. / Mr. Tabiullah  
(3) c. / Mr. Muhammad Gul  
(4) d. / Mr. Muhammad Daud  
(5) e. / Mr. Muhammad Farooq  
(6) f. / Mr. Mushke Alam  
(7) g. / Mr. Saeed-ur-Rehman  
(8) h. / Mr. Hidayatullah

2. The orders regarding postings/ transfers of above officers will follow.

SECRETARY TO GOVT. OF NWFP  
WORKS & SERVICES DEPARTMENT

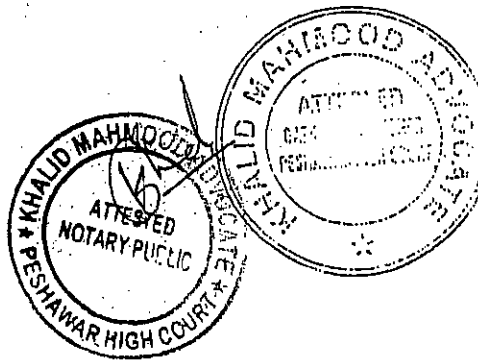
Endst: No.SOE-I/W&S/4-5/72

dated Peshawar the 8<sup>th</sup> February 2003

Copy to the

1. Accountant General NWFP Peshawar.
2. Secretary to Chief Minister, NWFP.
3. PS to Chief Secretary NWFP.
4. PS to Secretary Works & Services Department.
5. PA to Additional Secretary Works & Services Department.
6. Chief Engineer Works & Services Peshawar.
7. Managing Director Frontier Highways Authority Peshawar.
8. Managing Director Abascon Construction Corporation Peshawar.
9. All Deputy Secretaries/ Section Officers in Works & Services Department.
10. All Directors/ EDOs/ Works & Services in NWFP.
11. Manager Govt. Printing Press Peshawar for publication in the next issue of Government Gazette.
12. Officers concerned.
13. office order/ personal files.

(MUHAMMAD AKBAR KHAN)  
SECTION OFFICER (EST-I)



*Bush*  
26-10-2009

*Akbar Khan*

25

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

Dated Peshawar, the 8<sup>th</sup> February 2003

Notification

1. No. SOE-1/W&S/4-5/72. In consultation with the Provincial Selection Board, the competent authority, has been pleased to appoint the following Assistant Engineers (BPS-17) of the Works & Services Department against the posts of Executive Engineer (BPS-18), on acting charge basis, with immediate effect, except officers at serial k & l w.e.f. 15.02.2003 & 21.02.2003 respectively:-

|                |
|----------------|
| C.E W&S Deptt: |
| Dist. No       |
| Dist.          |
| Code           |
| Post No.       |
| Post Name      |
| FC             |
| D.E (S)        |
| D.E (R)        |
| A.O            |
| BSAO           |

- 1 a. Mr. Abdul Samin Khan. (26)
- 2 b. Mr. Ismail. (28)
- 3 c. Mr. Fateh Muhammad Jan. (27)
- 4 d. Mr. Kifayat Hussain. (29)
- 5 e. Mr. Waqar Ahmad Malik. (30)
- 6 f. Mr. Muhammad Khaliq Shah. (34)
- 7 g. Mr. Abdul Samad Khan. (35)
- 8 h. Mr. Muhammad Aslam Khan. (36)
- 9 i. Mr. Inayatullah Khan-II.
- 10 j. Mr. Ashiq Hussain Shah. (38)
- 11 k. Mr. Shams-uz-Zaman. (39)
- 12 l. Mr. Javed Ihsan. (42)

The orders regarding postings/transfers of above officers will follow.

SECRETARY TO GOVT. OF NWFP  
WORKS & SERVICES DEPARTMENT

Encl. No. SOE-1/W&S/4-5/72

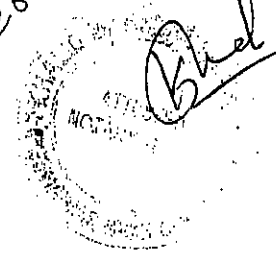
Dated Peshawar, the 8<sup>th</sup> February, 2003

Copy to the-

- 1. Accountant General NWFP, Peshawar.
- 2. Secretary to Chief Minister NWFP.
- 3. PS to Chief Secretary NWFP.
- 4. PS to Secretary Works & Services Department.
- 5. PA to Additional Secretary Works & Services Department.
- 6. Chief Engineer Works & Services Peshawar.
- 7. Managing Director Frontier Highways Authority Peshawar.
- 8. Managing Director Abaseen Construction Corporation Peshawar.
- 9. All Deputy Secretaries/Section Officers in Works & Services Department.
- 10. All Directors/EDOs Works & Services in NWFP.
- 11. Manager Govt. Printing Press Peshawar for publication in the next issue of Government Gazette.
- 12. Officers concerned.
- 13. Office Order/Personal files.



MUHAMMAD AKBAR KHAN  
SECTION OFFICER (ESTT-I)  
Handwritten signature and date: 26-10-2003



(25)

BETTER COPY

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

Dated Peshawar the 8<sup>th</sup> February 2003

Notification

1. No.SOE-I/W&S/4-5/72. In consultation with the Provincial Selection Board, the competent authority has been pleased to appoint the following Assistant Engineers (BPS-17) of the Works & Services Department against the posts of Executive Engineer (BPS-18) on acting charge basis, with immediate effect, except officers at serial k & l w.e.f. 15.02.2003 & 21.02.2003 respectively:-

- a. Mr.Abdul Samin Khan ①  
b. Mr.Ismail ②  
c. Mr.Fateh Muhammad Jan ③  
d. Mr.Kifayat Hussain ④  
e. Mr.Waqar Ahmad Malik ⑤  
f. Mr.Muhammad Khaiq Shah ⑥  
g. Mr.Abdul Samad Khan ⑦  
h. Mr.Muhammad Aslam Khan ⑧  
i. Mr.Inayatullah Khan-II ⑨  
j. Mr.Ashiq Hussain Shah ⑩  
k. Mr.Shams-uz-Zaman ⑪  
l. Mr.Javed Ihsan ⑫

2. The orders regarding postings/ transfers of above officers will follow.

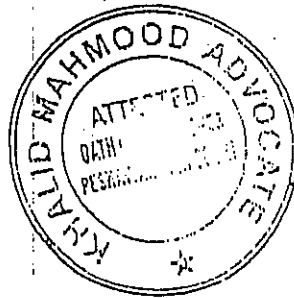
SECRETARY TO GOVT. OF NWFP  
WORKS & SERVICES DEPARTMENT

Endst: No.SOE-I/W&W/4-5/72

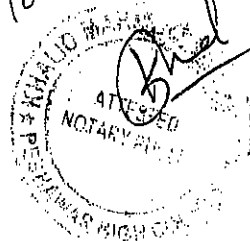
dated Peshawar the 8<sup>th</sup> February 2003

Copy to the

1. Accountant General NWFP Peshawar.
2. Secretary to Chief Minister, NWFP.
3. PS to Chief Secretary NWFP.
4. PS to Secretary Works & Services Department.
5. PA to Additional Secretary Works & Services Department.
6. Chief Engineer Works & Services Peshawar.
7. Managing Director Frontier Highways Authority Peshawar.
8. Managing Director Abascen Construction Corporation Peshawar.
9. All Deputy Secretaries/ Section Officers in Works & Services Department.
10. All Directors/ EDOs/ Works & Services in NWFP.
11. Manager Govt. Printing Press Peshawar for publication in the next issue of Government Gazette.
12. Officers concerned.
13. Office order/ personal files.



(MUHAMMAD AKBAR KHAN)  
SECTION OFFICER (EST-I)



# Annexure - "D"

26

GOVERNMENT OF NWFP  
WORKS & SERVICES DEPARTMENT

Dated Peshawar, the May 16, 2003.

## ORDER

No. SO(F)WAS/26-12/2001/Vol-III. WHEREAS, Mr. Nazir Ahmed, Design Engineer, O/O Chief Engineer, WAS Peshawar, was proceeded against under the NWFP Removal from Service (Special Powers) Ordinance 2000, for the alleged irregularities committed in the feasibility study and construction of RCC bridge over Yarkhun at Mastuj with realignment of Parwak - Mastaj Road (11-Km) Chitral.

2. AND WHEREAS, Show Cause notice for imposition of minor penalties of "WITHHOLDING OF THREE INCREMENTS FOR THREE YEARS and "CENSURE" was served upon the accused official, to which he submitted his reply.

3. NOW, THEREFORE, the competent authority, after having considered the charges, material on record and explanation of the accused officer, in exercise of powers conferred by rule 3 of the NWFP removal from Service (Special Powers) Ordinance 2000, has been pleased to impose the minor penalties of "WITHHOLDING OF THREE INCREMENTS FOR THREE YEARS and "CENSURE" upon Mr. Nazir Ahmed, Design Engineer, O/O Chief Engineer, Works & Services Peshawar.

(ARSHAD MIRZA)  
SECRETARY

No. SO(F)WAS/26-12/2001/Vol-III

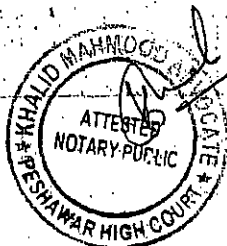
Dated Pesh, the May 12, 2003

Copy to the:-

- 1) Accountant General NWFP Peshawar.
- 2) Chief Engineers, WAS Department, Peshawar.
- 3) Director Works & Services Chitral.
- 4) P.S. to Chief Secretary, NWFP, Peshawar.
- 5) P.S. to Secretary Works & Services Department.
- 6) P.A. to Additional Secretary, WAS Department.
- 7) Officer concerned.
- 8) O/O File, Personal File/ACRS.

Received  
on 19/5/2003

(IHRANULLAH) 19/5  
SECTION OFFICER (ESTT-II)



# Annexure "E"

27

BEFORE THE NWFP SERVICES TRIBUNAL, PESHAWAR.

N.W.F. Province  
Service Tribunal  
Diary No. 688  
Dated 24-6-03

In re: Service Appeal No. 598 /2003.  
Nazir Ahmad, Designing Engineer,  
Office of Chief Engineer Works and

Services Department, Peshawar. Appellant.

Versus

Registrar

1 Government of NWFP through  
Secretary Works and Services Department,  
Peshawar.

2 Provincial Selection Board, NWFP, Peshawar.

3. Atanullah Khan, Deputy Director Works & Services Deptt: Distt: Swabi.

4. Muhammad Gul, Deputy Director Works & Services Deptt: Distt: Kohat.

5. Ghulam Daud, Deputy Director in office of Chief Engineer Works & Services Deptt: Peshawar.

6. Fatiullah, Deputy Director Works & Services Deptt: Distt: Battagram.

7. Mohammad Farooq, Care of Section Officer (Estab:) Works & Services Deptt Peshawar.

8. Mushk-e-Alam. -do-

9. Saeedur Rehman, Deputy Director Farm to Market Roads Kubabian Peshawar.

10. Hidayatullah, Deputy Director Works & Services Deptt: Distt: Newshera.

11. Abdul Samin, Deputy Director Frontier Highways (FHA) at Saidu Sharif Swat.

12. Muteh Mohammad Khan, Deputy Director Works & Services Deptt: Distt: Abbotabad.

13. Ismail, Deputy Director Provincial Building Maintenance Cell Peshawar.

14. Nithyat Hussain, XEN Dev: C&W Division Mattani at Kohat.

15. Waqar Ahmad Malik, T.O. in C/O Chief Engineer Works & Services Deptt: Peshawar.

16. Muhammad Khaliq Shah, Deputy Director Works & Services Deptt: Distt: Hanjra

17. Abdul Samad Khan, Deputy Director Works & Services Deptt: Distt: Malakand

18. Muhammad Aslam Khan, Deputy Director Frontier Highways (FHA) Peshawar.

19. Hayatullah Khan-II, Deputy Director City Distt: Govt: Bacha Khan Chowk Peshawar.

20. Ashiq Hussain Shah, XEN S.D.O Dev: C&W Division Parachinar.

21. Shamsuz-Zaman, Asstt: Director Works & Services in Distt: Kohistan.

~~22. Secretary of NWFP through Chief Engineer Works and Services Department, Peshawar.~~

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ATTESTED  
NOTARY PUBLIC  
PESHAWAR HIGH COURT

22. Javed Ihsan, Design Engineer @/o Chief Engineer Works & Services  
23. Mr. Datta, Peethavara, MUKA  
All Assistant Engineers, PBS-17, Works and Services Department, Government of NWFP. Pch

..... Respondents.

APPEAL AGAINST THE IMPUGNED ORDER/NOTIFICATION NO. SOE-1/W&S/4-5/72 DATED 8 FEBRUARY 2003 OF RESPONDENT NO.1 WHEREBY HE IN TOTAL VIOLATION OF THE SENIORITY LIST, PROMOTED THE RESPONDENTS NO.3 TO 22, BEING JUNIORS TO THE APPELLANT TO THE RANK OF EXECUTIVE ENGINEERS, BPS-18, AND SUPERSEDED THE APPELLANT.

PRAYER:

To set aside the impugned order/notification being illegal, void and while considering the case of the appellant in accordance with law, he in preference to respondents No.3 to 22, being senior most, be promoted as Executive Engineer, BPS.18, from the date of the impugned Notification/order.

Respectfully Sheweth:

The facts loading to this Petition are :

1. That the appellant, a civil engineer, joined the then B&R now C&W Department, through Public Service Commission as SDO, Grade-17, in the year 1978.
2. That the appellant since then is serving the Department with dedication and has got undamaged service record through out, recommended regularly for promotion in every ACR.
3. That according to the Seniority List as on 1.6.2002, the appellant is placed on the top of the list at S.No.1. Copy of the Seniority List is Annexure:A.
4. That the appellant was temporarily promoted as XEN on 11.10.1999 against vacant post and till 25.3.2000 as Designing Engineer in Malakand Division in the office of Director. His temporary promotion was further maintained w.e.f. 25.3.2000 till 3.2.2002 as XEN Chitral in his original pay and scale.

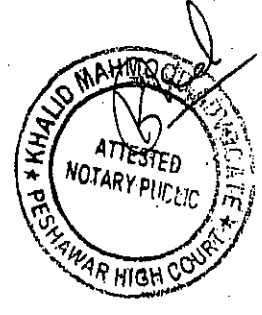
ATTESTED  
EX-ATTORNEY  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ATTESTED  
NOTARY PUBLIC  
PESHAWAR HIGH COURT

- 5. That the position of the appellant was maintained as such since February 2003 and posted as Designing Engineer (XEN) in the office of Chief Engineer, Peshawar where the appellant is serving as such till date.
- 6. That on 4.12.2002, the then Secretary Works fabricated a false case against the appellant and was thus charge-sheeted to which the appellant submitted his reply on 28.12.2002 to the Hon'ble Chief Secretary, which was pending when the posts of XEN were fallen vacant, however, the appellant though at S.No.1 of the Seniority List was not considered and consequently vide impugned order/notification the junior most respondents No.2 to 22 were promoted. Copy of the charge-sheet, reply and the impugned Notification are Annexure: B, C & D.
- 7. That feeling aggrieved the appellant submitted appeal/representation to the Hon'ble Chief Minister, NWFP on 1.3.2003, but unfortunately no reply was received even after a lapse of 90 days, hence this appeal on the following amongst other grounds:

GROUNDS

- A. That the appellant, according to the Seniority List, was on the top of it at S.No.1, whereas respondents No. 3 to 22 are at much lower position and thus the appellant was the first person to have been promoted on first available vacancy as XEN Grade-18, as such, the impugned order/notification is in total violation of all norms of justice, law and rules governing the situation.
- B. That the appellant has got unblemished service record without any adverse entry and has rendered 24 years service in Grade-17. He has also been temporarily promoted to the post of XEN in different capacities and is serving as such till date, hence he fulfills the requirement, besides seniority, of fitness as required under the law and, therefore, his name could not be dropped for considering the same for promotion to the next higher grade.
- C. That even if an inquiry was pending, which is absolutely a false and fabricated case on the face of it, it could not hinder or could

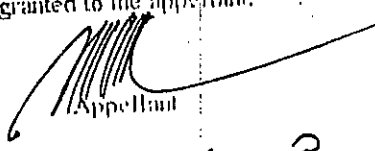


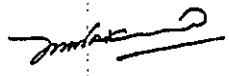
not cause a bar for considering his name and accordingly promoting him to the next higher grade.

30

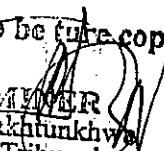
D. That the so-called inquiry was neither in accordance with law nor has had any basis for proceeding against the appellant. It is totally concocted case based on malafides of the then Secretary Works, who nourished ill-will with the appellant as the appellant had given a true statement in his defence instead of submitting to the whims of the said Secretary. The whole proceedings taken against the appellant are based on malafide and <sup>distorted</sup> facts and are liable to be brushed aside. The impugned order, if based on such inquiry, is not sustainable in the eyes of law.

It is, therefore, humbly prayed that on the acceptance of this appeal, the impugned order/notification may kindly be set aside and while considering the case of the appellant in accordance with law, he in preference to respondents No. 3 to 22, being senior most, may be promoted as Executive Engineer, BPS.18 from the date of the impugned Notification. Any other just and equitable relief deems fit in the circumstances of the case may also be granted to the appellant.


  
Appellant

Through:   
(Javed A. Khan)  
Advocate, Peshawar.

Dated: 23.6.2003.

Certified to be true copy  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 16.02.28.5.2012  
Number of Words 16  
Copying Fee 2  
Urgent 12  
Total 12  
Name of Copyist 28.5.2012  
Date of Completion of Copy 28.5.2012  
Date of Delivery of Copy 28.5.2012

  
KHALID MAHMOOD  
ATTESTED  
NOTARY PUBLIC  
PESHAWAR HIGH COURT



# Annexure "F"

(31)

2000]

Ziaul Hassan v. Naseem Chaudhry  
(Irshad Hasan Khan, J)

645

without pay. Since no question of public importance has been raised in these petitions, therefore, we do not find any merit and dismiss the same. Leave to appeal is refused in both the petitions.

H.B.T./D-23/S

Leave refused.

2000 S C M R 645

[Supreme Court of Pakistan]

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

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

versus

Mrs. NASEEM CHAUDHRY---Respondent

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

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

Civil service---

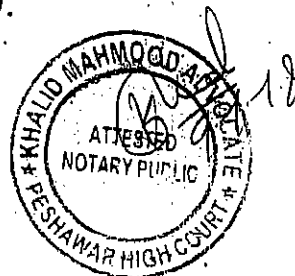
---Promotion---Supreme Court had found that civil servant had not been promoted by superseding any officer senior to her; she was entitled to be promoted from the date her juniors were promoted and there was no valid reason not to consider her for the promotion---Mere fact that some disciplinary proceedings were pending against the civil servant was not a sufficient ground to disregard the order passed by the Supreme Court---Promotion of civil servant, however, would not debar the Authorities to continue with the disciplinary proceedings against the civil servant, if any, justly, fairly and in accordance with law. [pp. 646, 647] A & B.

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

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

Date of hearing: 20th October, 1999.

SCMR



## JUDGMENT

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

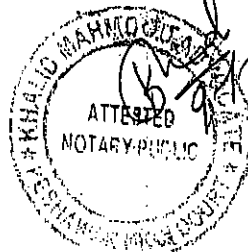
2. The dispute herein relates to the promotion of the respondent as Deputy Superintendent of Police:-

3. This Court through judgment, dated 15-4-1999 passed in C.P.L.A. No.1617-L of 1997 entitled The Inspector General of Police, Punjab, Lahore etc. v. Mrs. Naseem Chaudhry, etc., while dismissing the appeal of the Inspector-General of Police against the order of the Punjab Service Tribunal, Lahore in Appeal No.3097 of 1997, made the following observation:--

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

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

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



2000]

Ahmed Din v. Ghulam Muhammad  
(Irshad Hasan Khan, Actg. CJ).

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

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

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

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

Petition dismissed.

2000 S C M R 647

[Supreme Court of Pakistan]

Present: Irshad Hasan Khan, Actg. C.J. and Sh. Ijaz Nisar, J.

AHMED DIN---Petitioner

versus

GHULAM MUHAMMAD through Legal Heirs  
and others---Respondents

Civil Petition for Leave to Appeal No.675-L of 1999, decided on 10th September, 1999.

(On appeal from the judgment/order dated 17-11-1998 passed by the Lahore High Court, Lahore in R.S.A. No.170/88).

Supreme Court Rules, 1980---

---O. XIII, R. 1---Constitution of Pakistan (1973), Art. 185(3)---Petition for leave to appeal---Delay in filing such petition---Condonation---Delay of one hundred and twenty-three days in filing petition for leave to appeal was sought to be condoned by petitioner on ground that petitioner who was living in far off village could not receive letter from his counsel regarding dismissal of his appeal by High Court---Matter purely being between client and his counsel, opposite-party could not be penalized for alleged negligence of the counsel who allegedly could not inform petitioner in time---In absence of

10/11

# Annexure "G"

34

CONFIDENTIAL

ITEM NO.3

WORKS AND SERVICES DEPARTMENT  
(Meeting held on 8.11.2004)

SUBJECT: - PROMOTION OF ASSISTANT ENGINEERS (BPS-17) TO THE RANK OF EXECUTIVE ENGINEERS (BPS-18)

The Secretary Works and Services Department apprised the Board that 43 posts of Executive Engineers BPS-18 for promotions are available. According to service rules the posts of Executive Engineers is required to be filled in as under:-

"By selection on merit with due regard to seniority, from amongst the Assistant Directors/Assistant District Officers/Assistant Design Engineers/Assistant Engineers or holder of equivalent posts (BS-17), with at least 5 years of service as such.

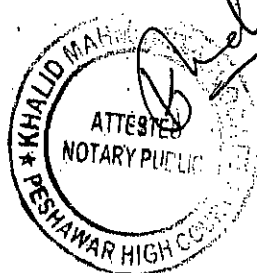
The service record of the officers included in the panel is discussed below:-

| S.NO | NAME OF OFFICER                     | RECOMMENDATIONS OF THE BOARD  |
|------|-------------------------------------|---|
|      | Mr. Nazir Ahmad Khan<br>B.E(Civil)  | <p>His date of birth is 11.6.1950. He is B.E(Civil). He joined Government service on 31.10.1978.</p> <p>Previously he was superseded on 28.11.2002 for the reasons that his performance/general reputation were not upto the mark. His behaviour with senior was not desirable. He was also involved in an enquiry.</p> <p>The Board was informed that the enquiry has now been finalized and a minor penalty of withholding of three increments for three years and "Censure" has been imposed upon him on 16.5.2003. Another minor penalty of "Censure" has also been imposed upon him on 4.9.2002.</p> <p>The Board, therefore, recommended his supersession for promotion to the post of Executive Engineer (BPS-18).</p> |
|      | Mr. Muhammad Hamayun<br>B.E (Civil) | <p>His date of birth is 14.11.1953. He is B.E(Civil). He joined Government service on 31.10.1978.</p> <p>Previously he was deferred by the Board on 7.11.2002 for the reason that he was under NAB custody. He has now been released on bail and his case is pending/under trial in the Accountability Court.</p> <p>The Board, therefore recommended to defer his promotion till the finalization of his case.</p>   |
|      | Mr. Sher Shah<br>B.E(Civil)         | <p>His date of birth is 1.3.1950. He is B.E(Civil). He joined Government service on 22.9.1979.</p> <p>Previously he was deferred by the Board on 28.11.2002 for the reason that he was under NAB custody. He has now been released on bail and his case is pending/under trial in the Accountability Court.</p> <p>The Board, therefore, recommended to defer his promotion till the finalization of his case.</p>  |

ATTESTED  
NOTARY PUBLIC  
PESHAWAR HIGH COURT

Section Officer (P.S.)  
Govt. of P.W.D.  
Establishment Deptt.

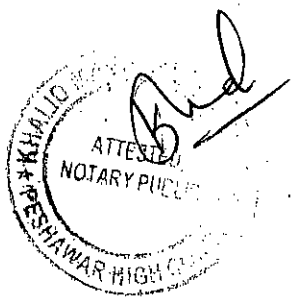
|  |  |
|--|--|
| 4<br>Mr. Shafiq Ahmad,<br>B.E (Mechanical) | <p>His date of birth is 9.2.1955. He is B.E (Mechanical). He joined Government service on 9.9.1979.</p> <p>Previously he was deferred by the Board on 28.11.2002 due to his involvement in draft paras. As a result of enquiry he has been absolved and the para has been settled.</p> <p>The Board noticed that the officer possess a degree of B.E (Mechanical). On the basis of his qualification he is not fit for holding a post in the Civil Division. The Administrative Department was advised to prepare a separate list of engineers B.E (Mechanical) and move a separate working paper for their promotion against available post of Deputy Director, in the Abasyn Construction Corporation on the basis of their seniority. The Department was further advised to explore posts for adjustment of remaining officers for their promotion in the relevant field.</p> |
| Mr. Zard Ali Khan<br>B.E (Civil)           | <p>His date of birth is 21.6.1955. He is B.E (Civil). He joined Government service on 3.9.1979. No enquiry is pending against him and no punishment was awarded to him during the last five years. His service record upto 2003 is generally good.</p> <p>Previously he was deferred by the Board on 28.11.2002 and was kept under observation, till he earns ACR for the year 2002. The Board was informed that he has earned good ACR for the year 2002 and 2003.</p> <p>The Board recommended that the officer may be cleared for promotion to the post of Executive Engineer (BPS-18) on regular basis with immediate effect. He will be on probation for a period of one year in terms of section-6 (2) of NWFP Civil Servants Act 1973 read with Rule-15(1) of NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1988.</p>                                  |
| Mr. Abdul Hafeez Saval<br>B.E (Civil)      | <p>His date of birth is 21.8.1957. He is B.E (Civil). He joined Government service on 9.9.1979.</p> <p>Previously he was deferred by the Board on 28.11.2002 for the reason that he was under NAB custody. He has now been released on bail and his case is pending/under trial in the Accountability Court. Moreover he has been served with charge sheet in an open enquiry. Report is awaited.</p> <p>The Board, therefore recommended to defer his promotion till the finalization of his case.</p>  |
| Mr. Imdad Hussain Bangash<br>B.E (Civil)   | <p>His date of birth is 2.2.1952. He is B.E (Civil). He joined Government service on 22.9.1979.</p> <p>Previously he was superseded by the Board on 28.11.2002 for the reason that his performance was not upto the mark. The Board was informed that two minor penalties of "Censure" have been imposed upon him in two different cases on 1.9.2003 and 12.11.2003. An enquiry is also pending against him.</p>   |



|   |  |
|---|--|
| <p>Mr. Muhammad Ijaz<br/>B.E (Civil)</p>          | <p>The Board, therefore recommended his supersession for promotion to the post of Executive Engineer (BPS-18).</p> <p>His date of birth is 7.5.1956. He is B.E(Civil). He joined Government service on 9.9.1979.</p> <p>Previously he was deferred by the Board on 28.11.2002 for the reason that he was under NAB custody. He has now been released on bail and his case is pending/under trial in the Accountability Court.</p> <p>The Board, therefore recommended to defer his promotion till the finalization of his case.</p>  |
| <p>Mr. Javed Ahmad Turk<br/>B.E (Civil)</p>       | <p>His date of birth is 15.2.1955. He is B.E(Civil). He joined Government service on 9.9.1979.</p> <p>Previously he was deferred by the Board on 28.11.2002 for the reason that a departmental proceeding was pending against him. The Board was informed that as a result of the said proceeding a minor penalty of "Censure" has been imposed upon him on 20.11.2002.</p> <p>The Board, therefore recommended his supersession for promotion to the post of Executive Engineer (BPS-18)</p>  |
| <p>Mr. Muhammad Ashraf Khan-J<br/>B.E (Civil)</p> | <p>His date of birth is 5.8.1949. He is B.E(Civil). He joined Government service on 9.9.1979. No enquiry is pending against him and no punishment was awarded to him during the last five years. His service record upto 2003 is generally good.</p> <p>Previously he was deferred by the Board on 28.11.2002 for the reason that his ground feed back was adverse, enjoy bad reputation and his ACRs were not available. The Board was informed that he his missing ACRs are now available which are good. He also earned good A/R for the year 2002 and 2003. He has improved considerably</p> <p>The Board recommended that the officer may be cleared for promotion to the post of Executive Engineer (BPS-18) on regular basis with immediate effect. He will be on probation for a period of one year in terms of section-6 (2) of NWFP Civil Servants Act 1973 read with Rule-15(1) of NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.</p> |
| <p>Mr. Abdul Majid Khan<br/>B.E (Civil)</p>       | <p>His date of birth is 20.11.1948. He is B.E(Civil). He joined Government service on 9.9.1979</p> <p>Previously he was superseded on 28.11.2002 for the reasons that his ground feed back was adverse and enjoy bad reputation. The Board was informed that two number of disciplinary cases are still pending against him.</p> <p>The Board, therefore, recommended his supersession for promotion to the post of Executive Engineer (BPS-18).</p>   |

*Attested*

Section Officer



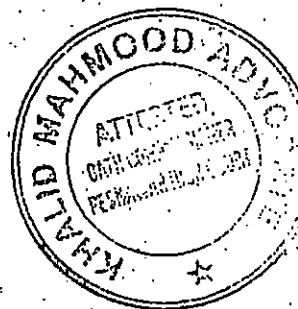
GOVERNMENT OF N.W.F.P.  
WORKS & SERVICES DEPARTMENT

Dated Peshawar, the 23<sup>rd</sup> December 2004

Notification

No. SOP-F/W&S/A-5/72/2004. In consultation with the Provincial Selection Board, the competent authority has been pleased to promote the following Assistant Engineers/Assistant Directors (BPS-17) of the Works & Services Department to the rank of Executive Engineer/Deputy Director (BPS-18), on regular basis, with immediate effect:-

1. Mr. Zard Ali Khan
2. Mr. Muhammad Ashraf Khan-I
3. Mr. Abdur Razaq Khan
4. Mr. Murad Ali
5. Mr. Abdul Samin Khan
6. Mr. Ismail
7. Mr. Fateh Muhammad Jan
8. Mr. Kafayat Hussain
9. Mr. Waqar Ahmad Malik
10. Syed Jalal-ud-Din
11. Mr. Ghulam Murtaza-I
12. Mr. Muhammad Aslam Khan
13. Mr. Hayatullah Khan
14. Mr. Asif Iqbal
15. Mr. Ashiq Hussain Shah
16. Mr. Shams-uz-Zaman
17. Mr. Faiz Muhammad
18. Mr. Rashidullah
19. Mr. Fazle Kabir
20. Syed Daud Jan
21. Mr. Sherullah Khan
22. Mr. Jehanzeb Khan-I
23. Mr. Saif-ur-Rehman
24. Mr. Farman Ali-II
25. Mr. Muhammad Asif
26. Mr. Kalim Khan
27. Mr. Zardad Khan
28. Mr. Aslam Khan
29. Mr. Shahi Jehan
30. Mr. Muhammad Pervez



The orders regarding postings/transfers of above officers will follow

SECRETARY TO GOVT. OF NWFP  
WORKS & SERVICES DEPARTMENT

Endst. No. SOP-F/W&S/A-5/72/2004

Dated Peshawar, the 23<sup>rd</sup> December, 2004

Copy to the:-

1. Secretary to Chief Minister NWFP
2. Accountant General NWFP, Peshawar
3. Accountant General (PR) Sub Office Peshawar



21  
20/12/2004

37

BETTER COPY

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

Dated Peshawar the 23<sup>rd</sup> December 2004

Notification

1. No.SOE-I/W&S/4-5/72/2004. In consultation with the Provincial Selection Board, the competent authority has been pleased to promote the following Assistant Engineers/ Assistant Directors (BPS-17) of the Works & Services Department to the rank of Executive Engineer/ Deputy Director (BPS-18) on regular basis, with immediate effect:-

1. Mr.Zard Ali Khan
2. Mr.Muhammad Ashraf Khan-I
3. Mr.Abdur Razaq Khan
4. Mr.Murad Ali
5. Mr.Abdul Samin Khan
6. Mr.Ismail
7. Mr.Fatch Muhammad Jan
8. Mr.Kifayat Hussain
9. Mr.Waqar Ahmad Malik
10. Syed Jalal-ud-Din
11. Mr.Ghulam Murtaza-I
12. Mr.Muhammad Aslam Khan
13. Mr.Inayatullah Khan
14. Mr.Asif Iqbal
15. Mr.Ashiq Hussain Shah
16. Mr.Shamis-uz-Zaman
17. Mr.Faiz Muhammad
18. Mr.Rashidullah
19. Mr.Fazle Kabir
20. Syed Daud Jan
21. Mr.Sherullah Khan
22. Mr.Jehanzeb Khan-I
23. Mr.Saif-ur-Rehman
24. Mr.Farman Ali-II
25. Mr.Muhammad Asif
26. Mr.Kalim Khan
27. Mr.Zardad Khan
28. Mr.Aslam Khan
29. Mr.Shah Jehan
30. Mr.Muhamamd Pervez

2. The orders regarding postings/ transfers of above officers will follow.

SECRETARY TO GOVT: OF NWFP  
WORKS & SERVICES DEPARTMENT

Endst: No.SOE-I/W&W/4-5/72/2004

Dated Pesh: the 23<sup>rd</sup> December 2004

Copy to the

1. Secretary to Chief Minister, NWFP.
2. Accountant General NWFP, Peshawar.
3. Accountant General (PR) Sub Office Peshawar.



20/12/2004



# Annexure "H"

38

CONFIDENTIAL  
MOST IMMEDIATE

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

No. SOE-I/W&S/1-6/78  
Dated Peshawar, the 05/05/2005

To

Mr. Nazir Ahmad,  
Deputy Director (OPS),  
Works & Services Chitral

Subject: APPEAL FOR REMISSION OF MINOR PENALTIES OF "CENSURE"  
AND "WITHHOLDING OF THREE INCREMENTS & CENSURE"

I am directed to refer to your appeal for remission of minor penalties of "Censure" and "Withholding of three increments & censure" as well as for promotion to the rank of Deputy Director (BS-18) and to state that your subject appeal was submitted to the Chief Minister NWFP who has been pleased to accept the same subject to the condition that you will withdraw your appeal under trial in the NWFP Services Tribunal against the imposition of said minor penalties.

It is, therefore, requested that necessary action in the matter may please be taken under intimation to this Department immediately in order to proceed further in the matter.

(ARSHAD KHAN FRIDI)  
SECTION OFFICER (ESTT-I)



*Arshad*  
20.10.2009



To

The Chairman,  
NWFP Services Tribunal Peshawar.

Subject: Application for the withdrawal of Service Appeals

1. No.598 of 2003 Nazir Ahmad Versus Secretary to Govt of NWFP, Works & Services Deptt.
2. No.984 of 2003 Nazir Ahmad Versus Secretary to Govt of NWFP, Works & Services Deptt.

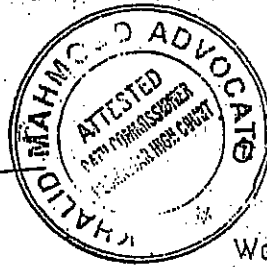
Sir,

Respectfully it is requested that:-

1. The undersigned has filed two number subject appeals in the honourable NWFP Services Tribunal in which the next date of hearing has been fixed on 31.05.2005.
2. The respondents have desired to patch-up the matter internally and have also promised for grant of relief to me.
3. I hope that the respondents will be kind enough to remove the problems faced to me for which your good-self had been approached.
4. If the problems faced to me are not resolved, I re-serve the rights to again approach the honourable court.

Therefore, based on the promises of the respondents, your good-self is requested to approve the withdrawal of my subject appeals for the time being subject to the solution of my problems for which your good-self had been approached.

Dated: 07/05/2005



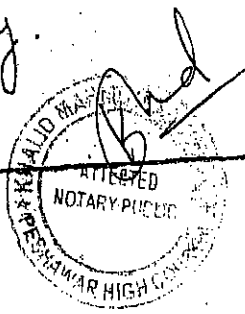
Yours obediently,

*(Signature)*  
 (Nazir Ahmad)  
 Deputy Director  
 Works & Services Chitral (OPS)  
 (APPELLANT)

Copy is forwarded to the Secretary to Govt. of NWFP, Works & Services Department Peshawar, for information & necessary action, w/r to his letter No.SOE-I/W&S/1-6/78 dated 05.05.2005, please.

*07/5/05*  
*office of*  
*Secretary.*  
*W&S.*

Deputy Director  
Works & Services Chitral (OPS).



(40)

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

Dated Peshawar, the 09/06/2005

ORDER

No. SOE-I/W&S/1-6/78 WHEREAS Mr. Nazir Ahmad (BS-17) Deputy Director Works & Services Chitral (Own pay & seat) was proceeded against under the NWFP Removal From Service (Special Powers) Ordinance, 2000 for the alleged irregularities committed in the feasibility study and construction of RCC Bridge over Yarkhun River at Mastuj with realignment of Parwak Mastuj Road (J.F. Km) Chitral.

2. AND WHEREAS minor penalties of "Withholding of three increments for three years and Censure" were served upon the accused officer vide this Department's Order No. SO(E)W&S/26-12/2001/Vol III dated 16.05.2003.

3. AND WHEREAS a minor penalty of "Censure" was also imposed upon the officer concerned for the charges that he had not provided the relevant record to the Inquiry Officer in connection with Feasibility Study & Construction of RCC Bridge Over Yarkhun River at Mastuj Chitral (ADP No. 296/94/1012) vide this Department's Order No. SOE-I/W&S/1-6/78 dated 04.09.2002.

4. AND WHEREAS the officer concerned submitted an appeal to the appellate authority, who has been pleased to accept his appeal.

5. NOW THEREFORE the Orders issued vide this Department's No. SO(E)W&S/26-12/2001/Vol III dated 16.05.2003 and No. SOE-I/W&S/1-6/78 dated 04.09.2002 vide which the penalties were imposed upon the officer concerned are hereby withdrawn.

SECRETARY TO GOVT. OF NWFP  
WORKS & SERVICES DEPARTMENT

Endst. No. & Date as above.

Copy forwarded to the

1. Secretary to Chief Minister NWFP
2. Accountant General NWFP Peshawar
3. Chief Engineer Works & Services Department NWFP Peshawar
4. Executive District Officer Works & Services Chitral
5. District Accounts Officer Chitral
6. Section Officer (Estt-II) Works & Services Department Peshawar
7. PS to Secretary Works & Services Deptt. Peshawar
8. PA to Additional Secretary Works & Services Deptt. Peshawar
9. Officer concerned
10. Office Order/Personal File



ITEM NO. I

WORKS AND SERVICES DEPARTMENT  
(Meeting held on 12.7.2005)

**SUBJECT: PROMOTION OF ASSISTANT ENGINEERS (BPS-17) TO THE RANK OF EXECUTIVE ENGINEERS (BPS-18)**

The Secretary Works and Services Department apprised the Board that seven clear posts of Executive Engineers (BPS-18) falling to the share of promotion are lying vacant. Seniority of the officers included in the panel is undisputed. According to service rules the post is required to be filled in as under:-

"By selection on merit with due regard to seniority, from amongst the Assistant Directors/Assistant District Officers/Assistant Design-Engineers/Assistant Engineers or holder of equivalent posts (BS-17), with at least 5 years of service as such.

2. The service record of the officer included in the panel is discussed as follows:-

| S.NO | NAME OF OFFICER                    | RECOMMENDATIONS OF THE BOARD  |
|------|------------------------------------|---|
| 1    | Mr. Nazir Ahmad Khan<br>B.E(Civil) | <p>His date of birth is 11.6.1950. He is B.E(Civil). He joined Government service on 31.10.1978.</p> <p>Previously he was superseded on 28.11.2002 and 8.11.2004 for the reasons that his performance/general reputation were not upto the mark. His behaviour with senior was not desirable. A minor penalty of "Censure" was imposed upon him on 4.9.2002. Another minor penalty of withholding of three increments for three years and "Censure" was imposed upon him on 16.5.2003.</p> <p>The Board was informed that the officer made a representation against the two minor penalties. The case was submitted to the Chief Minister who has been pleased to remit the minor penalties imposed upon him subject to the condition that he will withdraw his appeals filed in the NWFP Services Tribunal and direct the Works and Services Department to resubmit his promotion case to the PSB. The officer concerned has withdrawn his appeals from the NWFP Service Tribunal. The Board was further informed by the Secretary Works and Services Department that another enquiry has since been initiated against him.</p> <p>In view of the same the Board therefore recommends to defer his promotion till the finalization of enquiry.</p> |

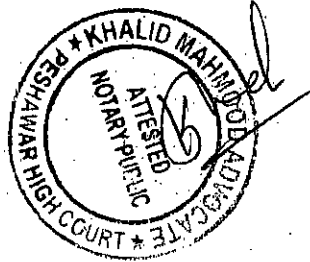
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[Signature]  
[Stamp]

KHALID MAHMOOD  
ATTESTED  
NOTARY PUBLIC  
PESHAWAR HIGH COURT

|   |                                  |  |
|---|----------------------------------|--|
|   |                                  | <p>The Board was informed that the officer filed a Writ Petition in the Peshawar High Court against his supersession. The Peshawar High Court decided that imposition of minor penalty by itself could not be impediment to promotion and the promotion is not the right of a civil servant but he only has the right to be considered for promotion. The Provincial Selection Board was directed to reconsider the petitioner for promotion.</p> <p>During the meeting held on 8.11.2004 Board was informed that an enquiry was pending against him. In the instant working paper result of the said enquiry has not been mentioned. After assessing over all performance of the officer the Board recommended to defer him and to be reassessed after he earn ACR for the year 2005 as well.</p> |
| 7 | Mr. Muhammad Ijaz<br>B.E (Civil) | <p>His date of birth is 7.5.1956. He is B.E(Civil). He joined Government service on 9.9.1979.</p> <p>His case with the NAB is still pending.</p> <p>The Board, therefore, recommended to defer his promotion till the finalization of his case.</p>  |

*Mushtaq*

*M. Ijaz*  
 Section Officer (PSB)  
 Govt. of N.W.F.P.  
 Establishment Deptt.



# Annexure "J"

GOVERNMENT OF NWFP,  
WORKS & SERVICES DEPARTMENT.

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Dated Peshawar, the December 31, 2008

## NOTIFICATION

No. SOE-IW&SD/4-53/70 Vol-II: The competent authority on the recommendations of Provincial Selection Board is pleased to promote the following Executive Engineers/Deputy Directors (B-18) to the rank of Superintending Engineers/Executive District Officer/Directors (B-19) in the Works & Services Department on regular basis with immediate effect subject to the final orders of Peshawar High Court Peshawar and Supreme Court of Pakistan.

1. Engr. Syed Sajid Hussain
2. Engr. Usman Khan
3. Engr. Abdullah Khan
4. Engr. Khalid Shah
5. Engr. Hidayatullah Khan
6. Engr. Zard Ali Khan
7. Engr. Abdur Razzak
8. Engr. Murdad Ali
9. Engr. Sohail Bin Qayyum

2. The officers so promoted will remain on probation for a period of one year in terms of Section 6(2) of NWFP Civil Servants Act, 1973 read with Rules-15(1) of NWFP Civil Servants (Appointment, Promotion & Transfer) Rules 1989.

3. Postings/transfers of the above officers will follow.

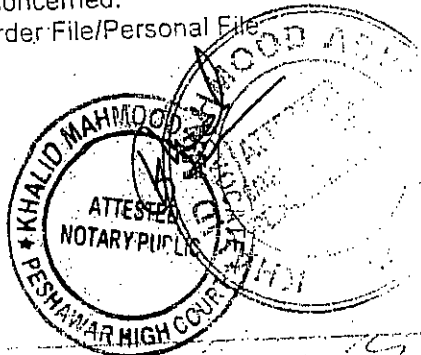
Secretary to Govt of NWFP,  
Works & Services Department

Endst of even number and date

Copy is forwarded to the:-

1. Principal Secretary to Chief Minister NWFP
2. Secretary to Govt of NWFP Establishment Deptt, Peshawar
3. Secretary to Govt of NWFP Finance Department, Peshawar
4. Accountant General NWFP, Peshawar.
5. Accountant General (PR) Sub Office, Peshawar.
6. Secretary-cum-Director General PERRA NWFP, Peshawar
7. Chief Engineer, W&S Peshawar.
8. Chief Engineer (FATA), W&S Peshawar.
9. Managing Director Frontier Highways Authority Peshawar
10. Managing Director Abaseen Construction Corporation Peshawar
11. All Executive District Officers W&S Department.
12. Director Building & Works (Prov) W&S Peshawar
13. Project Director (FAP) W&S Peshawar
14. District Accounts Officers, Nowshera/Kohat/Abbottabad/Mardan
15. PS to Chief Secretary NWFP, Peshawar
16. Incharge Computer Cell W&S Department, Peshawar
17. PS to Secretary, W&S Peshawar.
18. Officer concerned.
19. Office order File/Personal File

(ANWAR-UL-HAQ)  
SECTION OFFICER (ESTT-I)



*Anwar-ul-Haq*  
20-10-2009

Peshawar.

GOVERNMENT OF NWFP,  
WORKS & SERVICES DEPARTMENT

44

Dated Peshawar, the December 31, 2008

NOTIFICATION

No. SOE-IWW&SD/4-53/70 Vol-II: The competent authority on the recommendations of Provincial Selection Board is pleased to appoint the following Executive Engineers/Deputy Directors (B-18) to the rank of Superintending Engineers/Executive District Officer/Directors (B-19) in the Works & Services Department on acting charge basis with immediate effect subject to the final orders of Peshawar High Court Peshawar and Supreme Court of Pakistan.

- 1) Engr. Abdul Samin Khan
- 2) Engr. Fateh Muhammad Jan

2. Postings/transfers of the above officers will follow.

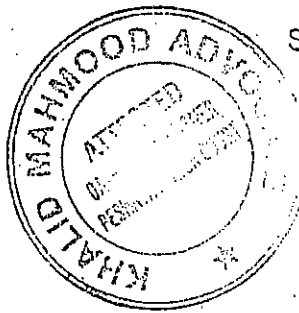
Secretary to Govt of NWFP,  
Works & Services Department

Endst of even number and date

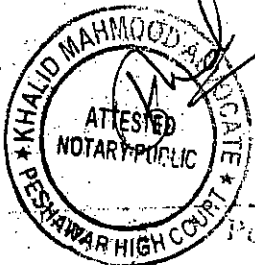
Copy is forwarded to the:-

1. Principal Secretary to Chief Minister NWFP
2. Secretary to Govt of NWFP Establishment Deptt, Peshawar
3. Accountant General NWFP, Peshawar.
4. Accountant General (PR) Sub Office, Peshawar.
5. Chief Engineer, W&S Peshawar.
6. Chief Engineer (FATA), W&S Peshawar.
7. Managing Director Frontier Highways Authority Peshawar
8. Managing Director Abaseen Construction Corporation Peshawar
9. All Executive District Officers W&S Department.
10. PS to Chief Secretary NWFP, Peshawar
11. Incharge Computer Cell W&S Department, Peshawar
12. PS to Secretary, W&S Peshawar.
13. Officer concerned.
14. Office order File/Personal File.

(ANWAR-UL-HAQ)  
SECTION OFFICER (ESTT-I)



*Bush*  
20/10/2009



Service Tribunal,  
Peshawar.

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GOVERNMENT OF NWFP,  
WORKS & SERVICES DEPARTMENT.

Dated Peshawar, the April 30, 2009

ORDER

NO.SOE-I/W&SD/3-1/2009: Engr, Nazir Ahmed Deputy Director (OPS), Works & Services Chitral is hereby authorized to hold Additional Charge of the vacant post of Executive District Officer, W&S Chitral, in addition to his own duties, with immediate effect, till further orders.

Secretary to Govt of NWFP,  
Works & Services Department

Endst of even number and date

Copy is forwarded to the:-

1. Principal Secretary to Chief Minister NWFP, Peshawar
2. Accountant General NWFP, Peshawar.
3. Chief Engineer, W&S Peshawar.
4. Political Secretary to Chief Minister NWFP, Peshawar
5. EDO Works & Services, Chitral
6. Deputy Director, W&S Chitral
7. District Accounts Officer, Chitral
8. PS to Secretary, W&S Peshawar.
9. Officer concerned.
10. Office order File/Personal File.

( ANWAR-UL-HAQ )  
SECTION OFFICER (ESTT-I)



- Annexure K "

46

GOVERNMENT OF NWFP  
WORKS & SERVICES DEPARTMENT

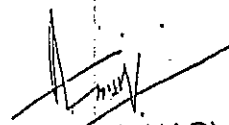
No. SOE-I/W&SD/8-28/72006  
Dated Peshawar, the Sept 30, 2009

To

Engr Nazir Ahmed  
Deputy Director  
Works & Services, Chitral

Subject: APPLICATION/APEAL

I am directed to refer to your appeal/application dated 06.03.2009, 29.08.2009 and 29.09.2009 on the subject noted above and to state that a panel of BS-17 officers including your name was submitted to PSB twice for promotion to the rank of Deputy Director (BS-18), but the PSB returned the case with certain observations. Therefore, your appeal/application has been ordered to be kept pending on 04.09.2009.


  
(ANWAR-UL-HAQ)  
SECTION OFFICER (ESTT-I)

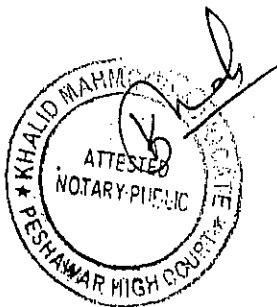
Endst even No. & date

Copy forwarded to the PS to Secretary W&S Department for information

SECTION OFFICER (ESTT-I)



  
26/10/2009



47

BEFORE THE N.W.F.P. SERVICE TRIBUNAL, PESHAWAR



N.W.F.P. Service Tribunal, Peshawar  
Diary No. 1876  
Date 7-10-09

S.A.No. 1758/2009

Nazir Ahmad Khan  
Deputy Director Works and Services, Chitral..... Appellant

Versus

1) Government of NWFP through Secretary Works and Services Department, Peshawar.

2) Provincial Selection Board, NWFP, Peshawar.

*deleted* 3) Attaullah Khan, (retired)

*deleted* 4) Muhammad Gul, (retired)

*deleted* 5) Ghulam Daud, EDO Works and Services Deptt., Peshawar.

*deleted* 6) Tabiullah, (retired)  
*Filed to-day*

*deleted* 7) Muhammad Farooq, (retired)  
*Registrar 7/10/09*

Mushk-e-Alam, (retired)

Saeed-ur-Rehman, (on LPR)

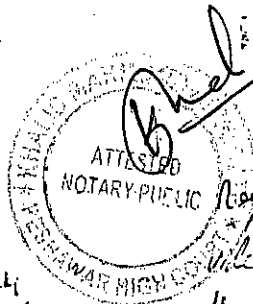
Hidayatulah, Director Building and Works (Provincial) Peshawar.

11) Abdul Samin, Director Frontier Highways (FHA) Peshawar.

*Registered to-day and filed.*

12) Ismail, (retired).

*Registered 2/10/09* 13) Kifayat Hussain, (retired)



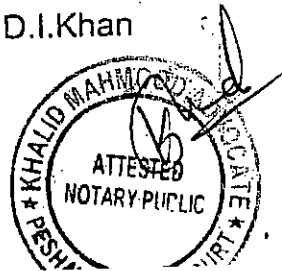
*Responded No. 5 & deleted  
with order dated 9.8.2010  
dt: 9*

*Responded Nos. 10, 11, 14, 15, 18, 19, 20, 21,  
22, 24, 31, 32, 34, 35, 37, 41, 42, 43, & 44  
Responded  
against the order with order dated 9-8-2010*

*17, 22, 25, 30, 35*

- (14) Waqar Ahmad Malik, Deputy Director Works and Services, Nowshera.
- (15) Muhammad Khaliq Shah, (waiting for posting) C/O Secy; Works and Services Deptt: Peshawar.
- x (16) Abdul Samad Khan, (died).
- x (17) Muhammad Aslam Khan, (retired).
- (18) Inayatullah Khan-II, (waiting for posting) C/O Secy: Works and Service, Deptt: Peshawar.
- (19) Shams-uz-Zaman, Director Provincial Building Maintenance Cell (W&S) Peshawar.
- (20) Javed Ihsan, Director, FHA, Peshawar.
- (21) Zard Ali Khan, Chief Engineer (PERRA), Mansehra.
- (22) Muhammad Ashraf Khan-I, (retired).
- (23) Murad Ali, Additional Secretary (Admn) Finance Department, Peshawar.
- (24) Syed Jalal-ud-Din, Deputy Director (PERRA) Mansehra.
- x (25) Ghulam Murtaza-I, (retired).
- (26) Muhammad Aslam Khan, XEN FR Peshawar at Kohat.
- (27) Asif Iqbal, (waiting for posting) C/O Secy: W&S, Peshawar.
- (28) Rashidullah, XEN Highway Division Khyber at Jamrud.
- (29) Syed Daud Jan, Deputy Director W&S, Abbottabad.
- x (30) Sherullah Khan, (retired)
- (31) Jehanzeb Khan-I, EDO W&S, Bannu
- (32) Saif-ur-Rehman, EDO, W&S, D.I.Khan

EX AMIN EX  
Khyber Pakhtunkhwa  
Service Internal,  
Peshawar

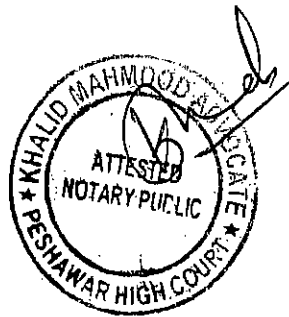


- (33) Farman Ali-II, Deputy Director (North) FHA, Swat.
- (34) Muhammad Asif, (waiting for posting) C/O Secy; W&S, Peshawar
- x (35) Kalim Khan, (retired)
- (36) Zardad Khan, XEN Building Divn: NWA at Tank.
- x (37) Aslam Khan, (retired).
- Deleted x (38) Shah Jehan, on extraordinary leave 4 years.
- (39) Muhammad Pervez, XEN Highway Divn: Kurram Parachinar.
- Respect No. 40  
deleted with  
order dt. 17-2-11  
(40) Syed Sajid Hussain, Managing Director Abaseen Construction Corporation, Peshawar.
- (41) Usman Khan, EDO W&S, Kohat.
- (42) Abdullah Khan, Director (HQ) office of Chief Engr: W&S, Peshawar.
- (43) Khalid Shah, Member (Tech) Provincial Inspection Team, Peshawar.
- (44) Sohail Bin Qayum, EDO W&S, Mardan..... Respondents

APPEAL U/S 4 OF THE N.W.F.P. SERVICE TRIBUNAL ACT, 1974 FOR PROMOTION OF THE APPELLANT IN THE NEXT HIGHER GRADE OF BPS-18 AND ABOVE WITH ALL BACK BENEFITS.

ATTESTED

Respectfully Sheweth;



1. That the appellant, a civil engineer, joined the then B&R Now C&W Department, through Public Service Commission as SDO, Grade-17, in the year, 1978.
2. That the appellant since then is serving the Department with dedication and has got unblemished service record through recommended regularly for promotion in every ACR.
3. That the appellant was temporarily promoted as XEN on 11.10.1999 against vacant post and till 25.3.2000 as Designing Engineer in Malakand Division in the office of Director. His temporary promotion was further maintained w.e.f: 25.3.2000 till 3.2.2002 as XEN Chitral in his original pay and scale.
4. That the position of the appellant was maintained as such since February 2003 and posted as Designing Engineer (XEN) in the office of Chief Engineer, Peshawar and lastly posted as XEN C&W, Chitral.

5. That on 4.12.2002, the then Secretary Works fabricated a false case against the appellant and was thus charge-sheeted to which the appellant submitted his reply on 28.12.2002.

That however, not satisfied with the reply of the appellant an inquiry was initiated and on completion of the so-called inquiry the respondent passed the impugned order.

7. That the appellant filed an Appeal before the Hon'ble NWFP Service Tribunal, Peshawar vide Appeal No. 598/2003 which was pending adjudication.

8. That in fact minor penalties imposed upon the appellant was due to a false and concocted case against him for alleged

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**ATTESTED**

**ATTESTED**  
NOTARY PUBLIC

irregularities in the scheme "Feasibility study and construction of RCC Bridge over Yarkhun at Mastuj with co-alignment of Parwak Mastuj Road (11 km)", thus the appellant was deprived of his due promotion in the normal course.

9. That the appellant filed another appeal vide Service Appeal 984/2003 before the NWFP Services Tribunal, Peshawar, against the impugned order dated 16.5.2003 of the department under the NWFP Removal from Service (Special Powers) Ordinance, 2000 whereby minor penalties of withholding of three increments for three years and censure was imposed on the appellant.

10. That both the aforementioned appeals were pending before the Hon'ble NWFP Service Tribunal when vide letter No. SOE-I/W&S/1-6/78 dated Peshawar the 5.5.2005 by Secretary Works & Services through Section Officer (Estttt-I) and the appellant was informed that the appeal already submitted to the Hon'ble Chief Minister, is pleased to accept the same subject to the condition that the appellant should withdraw his appeals aforementioned in the NWFP Services Tribunal against the imposition of said minor penalties. Copy of the letter is annexed.

11. That consequently vide said letter, the appellant submitted an application before the Hon'ble NWFP Services Tribunal, Peshawar dated 7.5.2005 for withdrawal of both the aforementioned appeals i.e. against the imposition of penalties as well as for promotion to the higher grade. Copy of the application is annexed.

12. That the Hon'ble NWFP Services Tribunal was pleased to allow the appellant and withdraw the appeals vide order dated 31.5.2005. Copy of the orders is annexed.

EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar  
ATTESTED

ATTESTED  
NOTARY PUBLIC  
PESHAWAR HIGH COURT

- 13. That, however, the then Hon'ble Chief Minister was pleased to withdraw the case of alleged irregularities aforementioned and the penalties imposed upon the appellant vide his order No. SOE-I/W&S/1-6/78 dated 9.6.2005, matter of promotion of the appellant to the higher grade was kept pending till date. Copy of the order is annexed.
- 14. That the only reason for withholding of promotion of the appellant was the stigma created by the aforementioned minor penalties and thus the appellant is, therefore, entitled to his due promotion as required under the law and circumstances of the case.
- 15. That the appellant is much senior when seniority list of Assistant Engineers was promulgated on 1.6.2002 where the appellant stood at serial No. 1 i.e. on the top of the list for promotion to the next higher grade i.e. grade-18. Copy of the seniority list is annexed.
- 16. That unfortunately during this period, vide notification No. SOE-I/W&S/4-5/72 dated 8.2.2003 officers junior to the appellant 20 in numbers have been promoted from grade-17 to grade-18 but the appellant has not been considered being senior most. Vide Notification No. SOE-I/W&S/4-5/72/2004 dated 23.12.2004, 30 more junior officers have been promoted from grade-17 to grade-18 and the appellant has been ignored once again. Copies of the notifications are annexed.

17. That even recently, vide Notification No. SOE-I/W&SD/4-53/70 dated 31.12.2008 junior officers promoted from grade-17 to grade-18 have now been moved-over from grade-18 to grade-19. These includes also junior officers who were much junior than the appellant while they were promoted to grade-

Handwritten notes and scribbles on the left margin, including the word "ANNEXED" written vertically.

Handwritten signature and a circular official stamp at the bottom right of the page.

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18 and now they have been placed in grade-19. Copy of the notification is annexed.

18. That because of the assurance by the then Chief Minister, the appellant withdrew his service appeals from the Hon'ble NWFP Services Tribunal, Peshawar and waited for blessing of the then Chief Minister till date, however, with no fruitful results.
19. That it is important to mention here that because of the official fraction, the appellant was once removed from service on a frivolous charge in March 2006; however, on appeal before the Hon'ble NWFP Services Tribunal, he has been reinstated to his post with all back benefits in August, 2008. Copy of the order is annexed.
20. That by all these facts narrated above, the appellant has been time and again subjected to humiliation by the department, however, nothing could be found against the appellant and thus he is now in service but without his due right i.e. right of promotion to the grade for which he is entitled to promotion from grade-17 to grade-18 on the due date and thereafter to grade-19 as per seniority list and grant of the same grade to his juniors as mentioned in the preceding paras.
21. That the appellant filed an appeal but the same has been responded on 30.09.2009 with remarks that the appeal has been kept pending. The appellant could not file the appeal earlier as it was assured by the authority that his appeal is being considered sympathetically and on flat refusal the present appeal.

EXAMINER  
NWFP Services Tribunal  
Peshawar

ATTESTED





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It is, therefore, humbly prayed that on the acceptance of this appeal, appellant be promoted to next higher grade i.e. Grade-18 and above with all back benefits from the due dates.

Appellant

Through

Javed A.Khan  
Advocate, Peshawar.

Certified to be true copy

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date 22.5.2012  
Number of Pages 3200  
Copying Fee 18  
Urgent 2  
Total 20  
Name of Copyist   
Date of Completion of Copy 22.5.2012  
Date of Delivery of Copy 22.5.2012

  
KHALID MAHMUD  
ATTESTED  
NOTARY PUBLIC  
PESHAWAR HIGH COURT

# WORKING PAPER FOR PROVINCIAL SELECTION BOARD

Department: Communication & Works Department

55

1. Nomenclature of the post/Basic Scale Executive Engineers (BS-18)
2. Service/Group/Cadre Engineering (C&W)
3. Sanctioned strength of the Cadre Total posts 70

|   | Direct | Promotion | Transfer |
|---|--------|-----------|----------|
| 4. i. Percentage of share   |        | 100%      |          |
| ii. No. of posts allocated to each category   | -      | 70        | -        |
| iii. Present occupancy position   | -      | 64        | -        |
| iv. No. of vacancies in each category   | -      | 06        | -        |
| v. Resulting vacancies due to promotion of Executive Engineer to Superintending Engineers (tentative) | -      | 05        | -        |

- v. How did the vacancy(ies) under promotion quota accrue and since when
  - i) Due to deferment --- 03 Posts
  - ii) Due to retirement (Annex-I) --- 03 Posts
  - iii) Resultant vacancies due to promotion of XENs to SEs --- 05 Posts

vi. Recruitment Rules

By promotion, on the basis of seniority-cum-fitness, from amongst the Sub Divisional Officers/Assistant Engineers/Junior Engineers/Assistant Research Officer, possessing Degree in B.E/B.Sc. Engineering, (Civil/Mechanical/Electrical) from a recognized University, with at least 5 (five) years service, and have passed the Professional Examination as prescribed in B&R Code (Annex-II).

vii. Required length of service

At least 05 (five) years of service in BPS-17 as such:

viii. Whether to be promoted on regular basis or appointed on acting charge basis?

On regular basis = 11 posts

ix. Mandatory training, if any

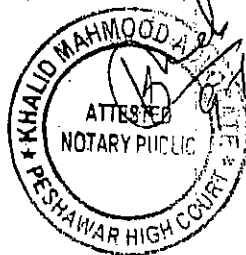
Nil

x. Minimum required score on EI.

50

(Engr Habib Ali)  
Secretary C&W

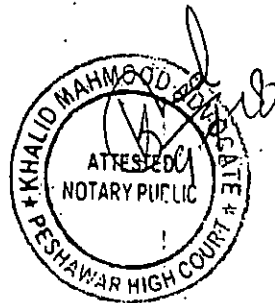
Dated 25 /03/2010



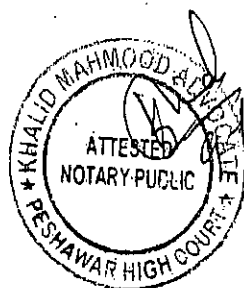
PANEL OF OFFICERS FOR CONSIDERATION

56

| Sl. No | Name of Officer                         | Remarks   |
|--------|---|---|
| 1.     | Mr. Nazir Ahmed Khan B.E. (Civil)       | The PSB in its meeting held on 29.12.2009 recommended to defer his promotion on the basis of pending inquiry regarding irregularities in the construction/repair of roads in district Chitral (Annex-I). Now the officer has been exonerated from the charges leveled against him (Annex-III) and is retiring from Govt service w.e.f. 11.06.2010. The officer has passed the Departmental Professional Exam and his PERs for the period 2009 are available. He got 68.57 score out of quantification of PERS.  |
| 2.     | Mr. Muhammad Nazar B.Sc (Civil)         | The officer was appointed as Assistant Engineer by the NWFP Public Service Commission on 26.05.1988 in BS-17. The PSB in its meeting held on 29.12.2009 recommended to defer his promotion to the post of Executive Engineer (BS-18) for further watch/observation of his performance (Annex-I). The officer has now earned PERs for the year 2009, which is very good, and he has passed the Departmental Professional Exam. He got 74.32 score out of quantification of PERS.   |
| 3.     | Mr. Peer Muhammad B.Sc (Civil)          | The PSB in its meeting held on 29.12.2009 recommended to defer his promotion on the basis of inquiry regarding false allegation against Govt servant (Annex-I). Now the competent authority (CS NWFP) recently appointed another inquiry committee to conduct formal inquiry under RSO 2000 against the said officer, however, the committee has not yet submitted his report, although the target date for submission of inquiry report was 06.03.2010 (Annex-IV). The officer has passed the Departmental Professional Exam and his PERs for the period 2009 are not available as the officer remained waiting for posting. He got 76.43 score out of quantification of PERS. |
| 4.     | Mr. Hamidullah Khan Khalil B.Sc (Civil) | The officer was involved in an inquiry case "REGARDING THE SCHEME "UPGRADTION OF GMS PAGONAI TO HIGH STATUS" DISTRICT SHANGLA". After fulfillment of all codal formalities, the competent authority (CM NWFP) has imposed major penalty "Reduction of time scale of pay by three stages" (Annex-V). The PSB in its meeting held on 29.12.2009 and recommended his supersession for promotion to the post of Executive Engineer (BS-18) (Annex-I). The officer has passed the Departmental Professional Exam and his PERs for the period 2009 are not available. He got 67.38 score out of quantification of PERS.   |
| 5.     | Mr. Aziz Ahmad-II B.Sc (Civil)          | The officer has passed the Departmental Professional Exam and his PERs for the period 2009 are available. He got 76.59 score out of quantification of PERS.   |
| 6.     | Mr. Hamidullah Khan B.Sc (Civil)        | The officer has passed the Departmental Professional Exam and his PERs for the period 2009 are available. He got 73.47 score out of quantification of PERS.   |
| 7.     | Mr. Abdul Qayum B.Sc (Civil)            | The officer has passed the Departmental Professional Exam and his PERs for the period 2009 are not available. He got 83.57 score out of quantification of PERS.   |
| 8.     | Mr. Syed Yousaf Shah B.Sc (Civil)       | The officer has passed the Departmental Professional Exam and his PERs for the period 2009 are available. He got 83.40 score out of quantification of PERS.   |
| 9.     | Mr. Shahid Aziz B.Sc (Civil)            | The officer was granted 730 days earned leave w.e.f. 21.01.2006 (Annex-VI). The leave further extended for a period of two years as Extra ordinary leave w.e.f. 01.01.2008 (Annex-VII). After expiry of leave, the services of the officer has been placed at the disposal of UNDP Islamabad, on deputation basis for a period of 3 years w.e.f. 01.01.2010 (Annex-VIII), however his PERs since 2006 to 31.12.2009 are not available, as the officer remained on earned/extra ordinary leave. The officer has passed the Departmental Professional Exam. He got 79.17 score out of quantification of PERS  |
| 10.    | Mr. Ghias-us-Din B.Sc (Civil)           | The officer has passed the Departmental Professional Exam and his PERs for the period 2009 are available. He got 87.05 score out of quantification of PERS.   |



|     |   |  |
|-----|---|--|
| 11. | Mr. Hamid Rauf Qureshi B.Sc (Civil)           | The officer was involved in a NAB case and subsequently acquitted by the NAB Court from the charges leveled against him (Annex-IX). He got 72.38 score out of quantification of PERS. The officer has passed the Departmental Professional Exam and his PERS for the period 2009 are available.  |
| 12. | Mr. Najmul Islam B.Sc (Civil)                 | The officer was involved in a NAB case and subsequently acquitted by the NAB Court from the charges leveled against him (Annex-IX). The officer was granted 730 days Ex-Pakistan Leave w.e.f. 15.07.2007, however, after availing 591 days Ex-Pakistan leave, the officer reported his arrival on 15.04.2009 to FATA Sectt for cancellation of remaining leave (139 days). The FATA Sectt has cancelled the remaining leave of the officer and accordingly posted as XEN Building Division SWA on 02.05.2009. After availing leave, he has not earned one calendar year PERS 2009, he has passed the Departmental Professional Exam. He got 69.93 score out of quantification of PERS. |
| 13. | Mr. Ghulam Hussain B.Sc (Civil)               | The officer has not passed the Departmental Professional Exam and his PERS for the period 2009 are not available. He got 73.57 score out of quantification of PERS.  |
| 14. | Mr. Muhammad Tariq-III B.Sc(Civil)            | The officer has passed the Departmental Professional Exam and his PERS for the period 2009 are not available as he remained waiting for posting. He got 79.47 score out of quantification of PERS.   |
| 15. | Mr. Luqman Shafi Khattak B.Sc (Civil)         | The officer has passed the Departmental Professional Exam and his PERS for the period 2009 are not available. He got 70.00 score out of quantification of PERS.  |
| 16. | Mr. Faizullah B.Sc (Civil)                    | The officer was involved in an inquiry regarding "Parachinar Teri Mangal Road". In the instant case, a minor penalty of recovery of Rs.8,55,000/- has been imposed upon him (Annex-X). But the said officer has not yet deposited the requisite amount in the Govt Treasury. His PERS for the year 1996, 1997, 2002, 2008 and 2009 are not available, which are reflected in PER synopsis. The officer has passed the Departmental Professional Exam. He got 72.28 score out of quantification of PERS.  |
| 17. | Mr. Gohar Ali Khan B.Sc (Civil)               | The officer has passed the Departmental Professional Exam and his PERS for the period 2009 are not available. He got 82.50 score out of quantification of PERS.  |
| 18. | Mr. Hasnain Javed B.Sc (Civil)                | The officer has passed the Departmental Professional Exam and his PERS for the period 2009 are available. He got 76.25 score out of quantification of PERS.  |
| 19. | Mr. Amin-ul-Khaliq B.Sc (Civil)/MS envt Engg) | The officer has passed the Departmental Professional Exam and his PERS for the period 2009 are available. He got 80.00 score out of quantification of PERS.  |
| 20. | Mr. Barkat Ullah B.Sc (Civil)                 | The officer is on three years extra ordinary leave without pay w.e.f. 09.01.2010. (without pay). The officer has passed the Departmental Professional Exam and his PERS for the period 2009 are not available. He got 87.89 score out of quantification of PERS.   |
| 21. | Mr. Zulfikar Ali B.Sc (Civil)                 | The officer is on two year extra ordinary leave without pay w.e.f. 31.08.2009. The officer has passed the Departmental Professional Exam and his PERS for the period 2009 are not available. He got 84.74 score out of quantification of PERS.   |
| 22. | Mr. Shahzad Afzal Khan B.Sc (Civil)           | The officer has not passed the Departmental Professional Exam and his PERS for the period 2009 are not available. He got 80.94 score out of quantification of PERS.  |
| 23. | Mr. Ahmed Nawaz B.Sc (Civil)                  | The officer is involved in an inquiry regarding "Irregularities committed in the tendering process of C&W Division Lakki Marwat" and properly charge sheet/statement of allegations have been served upon him, however the inquiry officer has not submitted the inquiry report (Annex-XI). The officer has passed the Departmental Professional Exam and his PERS for the year 1994 to 2009 are not available. He got 72.50 score out of quantification of PERS.  |



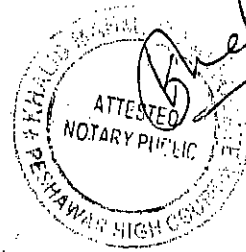
|     |                                   |   |
|-----|-----------------------------------|---|
| 24. | Mr. Muhammad Tariq-V B.Sc(Civil)  | The officer has not passed the Departmental Professional Exam and his PERs for the period 2009 are not available. He got 78.95 score out of quantification of PERS. |
| 25. | Capt @ Nawab Ali Khan B.Sc (Mech) | The officer has passed the Departmental Professional Exam and his PERs for the period 2009 are not available. He got 80.25 score out of quantification of PERS.     |
| 26. | Mr. Ejaz Ahmed B.Sc (Civil)       | The officer has passed the Departmental Professional Exam and his PERs for the period 2009 are not available. He got 82.63 score out of quantification of PERS.     |

### Certificate

1. Certified that the officers included in the panel are eligible in all respects and possess the required length of service required for promotion (except those at Sl. No. Nil).
2. Certified that the officers included in the panel have passed Professional Exam as prescribed in B&R Code, required for promotion (except those at Sl. No. 13, 22 & 24).
3. Certified that no disciplinary action/proceedings or criminal charges in any court of law are pending against any of the officers included in the panel except those at Sl. No. 3 & 23.
4. The seniority list of BS-17 as stood on 17.12.2009 is final and un-disputed (Annex-XII).

(Engr Habib Ali)  
Secretary, C&W

Dated 25/03/2010



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**MOST IMMEDIATE**  
**Court case**



GOVT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/13-5/2009  
Dated Peshawar, the Oct 25, 2011

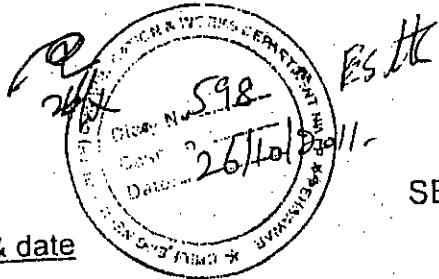
TO

The Chief Engineer (North) ✓  
C&W, Peshawar

Subject: Appeal No.1758/2009 Nazir Ahmad VS Secretary C&W & others

I am directed to refer to the subject noted above and to state that the subject service appeal was fixed for hearing before the Services Tribunal on 21.10.2011. During the course of arguments, the Hon'able Chairman Services Tribunal has directed to provide the inquiry record from Chief Engineer (North) C&W, Peshawar regarding "fake/bogus NIT advertisement in C&W Division Chitral.

2. It is, therefore, requested to furnish the aforementioned inquiry record/file within a week time positively for onward submission to Services Tribunal on the next date of hearing i.e. 14.11.2011.



*[Signature]*  
(RAHIM BADSHAH)  
SECTION OFFICER (ESTT)

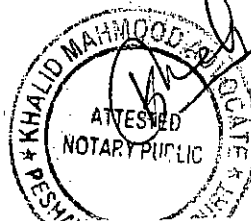
Endst even No. & date

Copy forwarded to the:

1. Registrar Khyber Pakhtunkhwa Services Tribunal Peshawar
2. PS to Secretary C&W Department

*Urgent Court case 6*

SECTION OFFICER (ESTT)





(60)

**COMMUNICATION & WORKS DEPARTMENT (NORTH WING)**  
**KHYBER PAKHTUNKHWA PESHAWAR**  
Block-C 3<sup>rd</sup> Floor, Attached Department Complex Khyber Road Peshawar

091-9210456 FAX 091-9210478

No. 825/75-E

Dated 11/11/2011

To

The Section Officer (E),  
Communication and Works Department  
Peshawar


Subject:

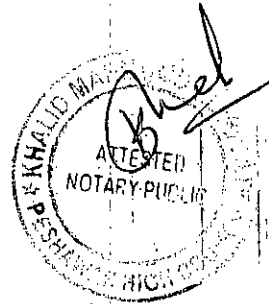
APPEAL NO. 1758/2009 NAZIR AHMAD VS SECRETARY C&W  
AND OTHERS

Reference: Your letter No. SOE/C&WD/3-5/2009 dated October 25, 2011

I am directed to refer to the subject noted above and to enclose herewith the requisite inquiry record/File containing (Thirty Nine pages) for favour of further necessary action as desired.

DA: As above

  
(Abdul Majid)  
Administrative Officer



✓

(61)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

SERVICE APPEAL NO. 1758/2009

Date of institution ..... 07.10.2009  
Date of judgment ..... 19.01.2012



Nazir Ahmad Khan,  
Deputy Director Works and Services, Chitral ..... (Appellant)

VERSUS

1. Government of NWFP (Khyber Pakhtunkhwa) through Secretary Works and Services Department, Peshawar.
2. Provincial Selection Board, NWFP (KPK), Peshawar.
3. Attaullah Khan, (retired) and 41 others. .... (Respondents)

APPEAL U/S 4 OF THE NWFP (KHYBER PAKHTUNKHWA)  
SERVICE TRIBUNALS ACT, 1974 FOR PROMOTION OF THE  
APPELLANT IN THE NEXT HIGHER GRADE OF BPS-18 AND  
ABOVE WITH ALL BACK BENEFITS.

Mr. Javed A. Khan, Advocate ..... For appellant.

Mr. Arshad Alam,  
Additional Govt. Pleader. For official respondents.

Private respondents No. 3 to 44 deleted/placed ex-parte.

Mr. Qalandar Ali Khan ..... Chairman  
Mr. Khalid Hussain ..... Member

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:- Nazir Ahmad Khan, the then

Deputy Director Works and Services, Chitral (appellant) had lodged this appeal against the Government of NWFP (Khyber Pakhtunkhwa) through Secretary Works and Services Department, Peshawar and 43 others (respondents) for promotion in the next higher grade (BPS-18) and above with all back benefits.

2. In his appeal, the appellant contended that having joined the then B&R and now C & W Department through Public Service Commission as SDO in grade 17 in the year 1978, he was temporarily promoted as XEN (Designing Engineer) in Malakand Division in the office of Director on 11.10.1999 till 25.3.2000, on the basis of his unblemished service record and being recommended for promotion in each and every ACR. The temporary promotion was further maintained w.e.f 25.3.2000 till

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ATTESTED



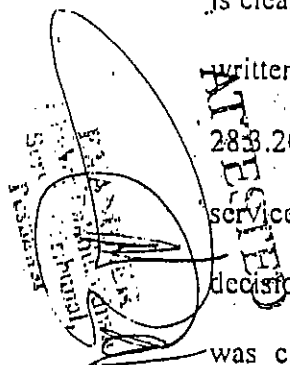
3.2.2002 as XEN Chitral in his original pay and scale. The same position was maintained and from February 2003 he was posted as Designing Engineer (XEN) in the office of Chief Engineer Peshawar and lastly posted as XEN C & W Chitral. However, in 2002 the appellant had to face departmental proceedings/inquiry, against which he filed appeals before this Tribunal which were pending adjudication against minor penalties imposed upon him on the ground of irregularities in the scheme "Feasibility study and construction of RCC Bridge over Yarkhun at Mastuj with co-alignment of Parwak Mastuj Road (11 KM)". In the process, the appellant was deprived of his due promotion in normal course. The appellant also filed another appeal in the Tribunal, and during pendency of the mentioned appeals before the Tribunal, he was informed that the appeal already submitted to the Chief Minister has been accepted subject to the condition that he should withdraw his appeal, from the Service Tribunal. The appeals were accordingly withdrawn vide order dated 31.5.2005, where-upon the case of alleged irregularities and penalty imposed upon the appellant was withdrawn by the Chief Minister. However, the matter of promotion to the higher grade remained pending, and though the appellant was on the top of the seniority list i.e at S.No. 1 of the seniority list of Assistant Engineers, he was not promoted and a number of officers junior to him were promoted from BPS-17 to BPS-18. The promotion of junior officers from BPS-17 to 18 and then move-over from BPS-18 to 19 continued un-abated, while the appellant was ignored. The appellant disclosed that because of the official fraction, he was once removed from service on a frivolous charge in March 2006 but was later on reinstated on the acceptance of his appeal by this Tribunal. The appellant, therefore, challenged promotion of his juniors, and prayed for his promotion being the senior most and having nothing adverse against him, through departmental appeal, which was responded to on 30.9.2009 with the remarks that the appeal has been kept pending, hence the present appeal on 7.10.2009.

3. The main ground on which the official respondent i.e Secretary to Government of NWFP (Khyber Pakhtunkhwa) Communication and Works Department

EX-AMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ATTENDED

(respondent No. 1) resisted appeal of the appellant was that the appellant was given higher post in his pay and scale due to dispute over seniority amongst officers of defunct Works and Services department. The respondent disputed this claim of the appellant that his positing on the higher post was a promotion, and, on the other hand, alleged, that the promotion could only take place when the incumbent official/officer came within promotion zone on the basis of seniority-cum-fitness and that too through Provincial Selection Board (PSB). The respondent, however, had to admit that there were no adverse remarks in the Performance Evaluation Reports (PERs) of the appellant. Respondent alleged that there were, however, certain reports by DCO Chitral about poor performance of the appellant, and that he was awarded the penalty of 'censure' on 2.4.1994 and also another penalty of 'censure' on 4.9.2002 and on 16.5.2003 his three increments were also withheld; but later on both the orders dated 4.9.2002 and 16.5.2003 were set-aside vide order dated 9.6.2005. The penalty of 'censure' on 15.01.2007 was also later on withdrawn on 16.3.2007. The respondent alleged that even at the time of filing of reply/comments, the appellant was facing inquiry, which was completed and was in the final stage, where-after, as and when he is cleared, his promotion will be considered through PSB. It was further alleged in the written reply/comments that the appellant was suspended from service w.e.f 28.3.2006 to 17.01.2007 vide order dated 28.3.2006 and there-after dismissed from service vide order dated 12.6.2007, but the penalty was withdrawn pursuant to the decision of this Tribunal in the service appeal of the appellant bearing No.971/2007. It was clearly stated in the written reply/comments that case of the appellant for promotion to BPS-18 remained under consideration of the PSB, time and again but his case was deferred due to his involvement in irregularities. The respondent claimed that the appellant was superseded/his case deferred due to pending disciplinary proceedings/inquiry and his juniors having sound record were promoted. The respondent under-took to place case of the appellant for promotion to BPS-18 as well as to BPS-19 before the competent forum i.e. PSB for consideration as and when the appellant is exonerated from the charges. It may be mentioned here that out of 42



private respondents, only private respondent No.40, namely, Syed Sajid Hussain, contested appeal and filed his written reply, but he also later on opted out of contest and his name was deleted from the panel of respondents on the application of the appellant.

4. The appellant also filed rejoinder in rebuttal to the allegations contained in the written reply/comments of the official respondent, where-after, written arguments were filed by the parties, and arguments of the learned counsel for the appellant and learned AGP also heard, and record perused.

5. In short, the claim of the appellant is that though being senior most and on top of the seniority list, he was not promoted from BPS-17 to BPS-18 and then to BPS-19, while a number of officers much junior to him were promoted from BPS-17 to BPS-18 and then moved over to BPS-19. The respondent disputed this claim of the appellant on the only ground that though having no adverse entry in his PERs, the appellant remained under departmental proceedings/inquiry, rather through out his service, whenever his case for promotion came up for consideration before the competent forum i.e. PSB, and even minor penalties, like 'censure' and 'withholding of increments' as well as major penalty of dismissal from service were imposed upon him. To say the least, the record speaks otherwise. The minor penalty of 'censure' and 'withholding of three increments for three years' vide orders dated 16.5.2003 and 4.9.2002 were withdrawn by the appellate authority vide order dated 9.4.2005, after the condition of withdrawal of the appeals before the Tribunal of the appellate authority i.e. Chief Minister was met by the appellant. Another minor penalty of 'censure' imposed upon the appellant by the competent authority vide order dated 15.01.2007 was also subsequently withdrawn by the same authority i.e. Secretary to Government of NWFP (Khyber Pakhtunkhwa) Works & Services Department, vide his order dated 16.3.2007. The appellant was further exonerated of the charges of alleged irregularities in the construction/repair of roads in District Chitral on the recommendation of the Inquiry Committee by the competent authority vide his order dated 16.2.2010. The dismissal order against the appellant dated 12.6.2007 was

ATTESTED  
 MEMBER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 HAWAL

(65)

withdrawn in pursuance of the decision of this Tribunal dated 2.6.2008, by the competent authority vide order dated 8.8.2008. In other words, the appellant came out clear from all departmental proceedings, but he was never promoted from BPS-17, in which he joined service, and each time his case for promotion came up for consideration before PSB, he was superseded/his case deferred on the ground of pendency of some departmental proceedings/inquiry against him. On the basis of judgments of the superior courts, the Lahore High Court held in the judgment reported as 2008 PLC (C.S) 1019 (Lahore High Court), that promotion could not be withheld on the ground of either imposition of minor penalty or pendency of departmental/inquiry proceedings against a civil servant. Ironically, on each occasion the appellant was denied promotion also on the ground that 'his behaviour with seniors was not desirable'; but, on the other hand, the respondent had to admit that there was nothing adverse against him in his PERs, and that he has always been recommended to the PSB because his service record was generally good. It, therefore, appears to us that the appellant has been victimized, perhaps, because of having not so 'cordial' relations with his seniors. Last but not the least, despite admitting the fact in the letter of department dated 6.9.2011 that pending inquiry, if any, stood abated against a government servant after his retirement, the appellant was not promoted and he retired from service in the same pay scale in which he was inducted into service, even after rendering services for several decades; and a number of officers much junior to him were promoted. The grounds cited for his supersession/deferment are not sustainable in law, as, pointed out above, pendency of inquiry or even imposition of minor penalties were not valid grounds for withholding promotion of a civil servant. The appellant was otherwise the senior most and there was nothing adverse in his service record, therefore, he was eligible for promotion during service, which right of him would continue even now for benefit in his pension.

6. Consequently, on the acceptance of the appeal, the concerned authorities in the respondent-department are directed to place case of the appellant for promotion to the next higher pay scales before Provincial Selection Board (PSB) within a period of

ATTESTED  
 Director  
 Provincial Selection Board  
 Islamabad

three months, under intimation to the Registrar of this Tribunal. There shall, however,

be no order as to costs.

ANNOUNCED  
19.01.2012

(KHALID HUSSAIN)  
MEMBER

(QALANDAR ALI KHAN)  
CHAIRMAN

Certified to be true copy

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 22.5.2012  
 Number of Words 2400  
 Copying Fee 14  
 Urgent 2  
 Total 16  
 Name of Copyist [Signature]  
 Date of Completion of Copy 22.5.2012  
 Date of Delivery of Copy 22.5.2012

# Annexure ..... L

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IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

Present

Mr. Justice Nasir-ul-Mulk  
Mr. Justice Tariq Parvez

Civil Petition No.170-P of 2012

(On appeal from the judgment dated 19.01.2012 passed by the KPK Service Tribunal, Peshawar in Service Appeal No.1758 of 2009.)

Govt. of KPK thr. Chief Secretary Works & Services Department & another  
... Petitioners

Nazir Ahmad Khan  
Vs.  
... Respondent

For the petitioners : Mr. Laljan Khattak, AAG

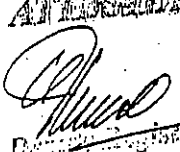
For the respondent : Mr. Ghulam Nabi, ASC.

Date of hearing : 17.01.2013.

ORDER

NASIR-UL-MULK, J. – The respondent who was appointed as Assistant Engineer in BS-17 on 23<sup>rd</sup> October, 1978 and retired in the same scale on 10<sup>th</sup> June, 2010. However, before his retirement he has filed Service Appeal on 7<sup>th</sup> October, 2009 for his promotion and by the impugned judgment dated 19<sup>th</sup> January, 2012, the KPK Service Tribunal allowed the appeal of the respondent and directed that his case for promotion to the next higher pay scale be placed before the Provincial Selection Board within a period of three months under intimation of the Registrar of the Tribunal. We are now informed that the case has not yet been placed before the Provincial Selection Board.

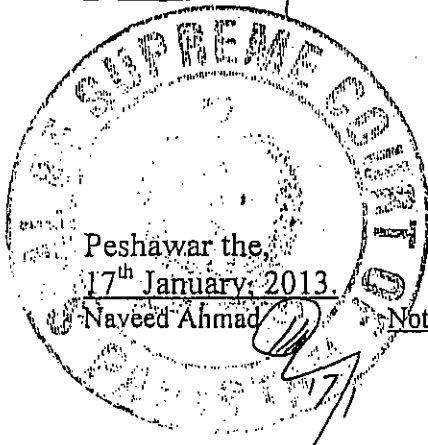
2. Learned Additional Advocate General states that the respondent's case for promotion was not earlier considered on account of six penalties imposed upon him from time to time since the year 2002. He however clarified that the respondent stood exonerated from those penalties on appeal either by the Department or Tribunal. This petition is liable to be

  
Nazir Ahmad Khan,  
Deputy Registrar,  
Supreme Court of Pakistan,  
Peshawar.

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dismissed on two grounds. Firstly that the Tribunal has not directed the promotion of the respondent but had only ordered that his case for promotion be placed before the Provincial Selection Board and secondly, that the order of the Tribunal for placing the respondent's case before the Provincial Selection Board within a period of three months has not been complied with. Leave to appeal is therefore declined and the petition dismissed, with the direction that the order of the Tribunal shall be implemented.

sd/- Nasir-ul-Mulk, J.  
sd/- Tariq Parvez, J.



Not Approved For Reporting

Certified to be true copy  
*[Signature]*  
19.01.2013  
Deputy Registrar,  
Supreme Court of Pakistan,  
Peshawar.

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GOVT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/13-5/2009  
Dated Peshawar, the Sept 11, 2013

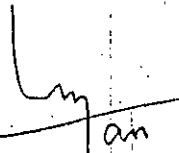
TO

The Registrar  
Services Tribunal  
Khyber Pakhtunkhwa  
Peshawar

Subject: Proforma Promotion in respect of Engr. Nazir Ahmad Assistant Engineer (BS-17) retired C&W Department to the rank of XEN (BS-18) in light of Service Tribunal and Supreme Court of Pakistan decisions

I am directed to refer to the subject noted above and to state that in light of the Service Tribunal decision dated 19.01.2012, the case of proforma promotion in respect of Engr. Nazir Ahmad Assistant Engineer BS-17 (Retired) C&W Department to the rank of XEN (BS-18) was processed and referred to Establishment Department for consideration of the Provincial Selection Board (PSB).

2. The PSB in its meeting held on 07.08.2013 considered the case in pursuance of Service Tribunal judgment dated 19.01.2012 and August Supreme Court of Pakistan judgment dated 17.01.2013 and did not find him suitable for promotion.

  
(USMAN JAN)  
SECTION OFFICER (ESTT)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar

SECTION OFFICER (ESTT)



Annexure ..... M

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR.

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S.A.No. 1608 /2013

Nazir Ahmad Khan

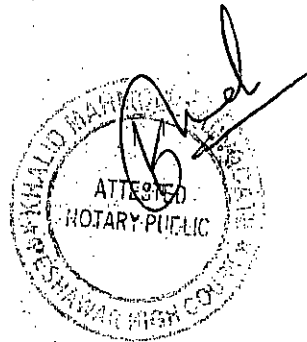
Retired Deputy Director Works and Services, Chitral..... APPELLANT

**VERSUS**

- 1) The Chief Secretary Government of Khyber Pakhtunkhwa  
Civil Secretariat Peshawar ..... Chairman P.S.B.
- 2) The Additional Chief Secretary Government of KPK  
Civil Secretariat Peshawar ..... Member P.S.B.
- 3) The Secretary S & G.A.D department Government of KPK  
Civil Secretariat Peshawar ..... Member P.S.B.
- 4) The Secretary Establishment Government of KPK  
Civil Secretariat Peshawar ..... Member P.S.B.
- 5) The Senior Member Board of Revenue Government of KPK  
Civil Secretariat Peshawar ..... Member P.S.B.
- 6) The Secretary C&W department Government of KPK  
Civil Secretariat Peshawar ..... Member P.S.B.

.....RESPONDENTS

(1) APPEAL FOR THE IMPLEMENTATION OF THIS  
HONOURABLE COURT DECISION DATED 19-1-2012  
(GRANTING THE APPELLANT PROFORMA  
PROMOTION FROM GRADE 17 TO 18 W.E.F 8-2-2003  
AND FROM GRADE 18 TO 19 W.E.F 31-12-2008 WITH  
ALL BACK BENEFITS, DATES WHILE JUNIORS  
WERE PROMOTED) AS AGAINST THE DECISION OF  
THIS COURT'S SAID ORDER DATED 19-1-2012 NO  
ORDER FROM THE AUGUST SUPREME COURT  
EXISTS.



(2) APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 (AMENDED 2013) FOR PROFORMA PROMOTION OF THE APPELLANT IN THE NEXT HIGHER GRADE OF BPS-18 AND ABOVE WITH ALL BACK BENEFITS WHILE SETTING ASIDE THE IMPUGNED ORDER DATED 11.09.2013 WHEREBY THE P.S.B NOT FOUND THE APPELLANT SUITABLE, WITHOUT ANY REASON, FOR PROFORMA PROMOTIONS COMMUNICATED TO THIS HONOURABLE TRIBUNAL VIDE LETTER NO.SOE/C&WD/13-5/2009 DATED SEPTEMBER 11, 2013.

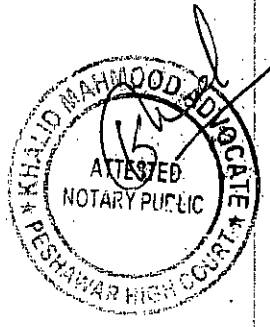
71

Respectfully Sheweth;

- 1) That the appellant, a Civil Engineer, now since retired, joined the then B&R now C&W department as SDO through Public Service Commission in Grade-17 on 22-11-1978.
- 2) That the appellant since then was serving the Department having record recommended regularly for promotion in every ACR.
- 3) That the appellant was temporarily promoted in own pay scale as XEN on 11.10.1999 against vacant post till 25.03.2000 as Design Engineer in Malakand Division in the office of Director. His temporary promotion was further maintained as mentioned in the following postings.
  - (i) XEN District Chitral w.e.f. 25-3-2000 to 3-2-2002.
  - (ii) Design Engineer office of Chief Engineer (April 2002 to August 2003).
  - (iii) XEN District Chitral (August 2003 to April 2006).
  - (iv) XEN District Chitral (March 2009 to June, 2010)



- 4) That on 04.12.2002, the then Secretary Works fabricated a false case against the appellant and imposed minor penalties and then Juniors were promoted leaving the appellant.
- 5) That the appellant filed two appeals before the Hon'ble NWFP Service Tribunal, Peshawar vide Appeal No.984/2003 and 598/2003 against the minor penalties and promotion of the juniors respectively.
- 6) That both the aforementioned appeals were pending before the Hon'ble KPK Service Tribunal while vide letter No.SOE-I/W&S/1-6/78 dated Peshawar the 5.5.2005 by Secretary Works & Services through Section Officer (Estt-I) the appellant was informed that the appeal already submitted to the Hon'ble Chief Minister has been accepted subject to the condition that the appellant should withdraw his appeals aforementioned, in the KPK Services Tribunal against the imposition of said minor penalties and promotion of juniors. (Copy of the letter is annexed).
- 7) That consequently due to the said letter, the appellant submitted an application before the Hon'ble KPK Service Tribunal, Peshawar dated 07.05.2005 for withdrawal of both the aforementioned appeals.
- 8) That the Hon'ble KPK Services Tribunal was pleased to allow the appellant and withdraw the appeals vide order dated 31.05.2005. (Copy of the orders is annexed).
- 9) That however, the then Hon'ble Chief Minister was pleased to withdraw the above mentioned penalties imposed upon the appellant vide his order NO.SOE-I/W&S/1-6/78 dated 9.6.2005 but matter of promotion of the appellant to the higher grade was kept pending instead of promise as mentioned above. (Copy of the order is annexed).
- 10) That the only reason for withholding of promotion of the appellant was the stigma created by the aforementioned minor penalties and thus the appellant was, therefore, entitled to his due promotion as required under the law and circumstances of the case.



- 11) That the appellant was much senior when seniority list of Assistant Engineers was promulgated on 1.6.2002 where the appellant stood at serial No.1 i.e. on the top of the list for promotion to the next higher grade i.e. grade-18. (Copy of the seniority list is annexed).
- 12) That unfortunately during this period, vide notification NO.SOE-I/W&S/4-5/75 dated 08.02.2003 officers junior to the appellant twenty in numbers were promoted from grade-17 to grade-18 but the appellant was left though being senior mbst. Vide notification No.SOE-I/W&S/4-5/2004 dated 23.12.2004, 30 more junior officers were promoted from grade-17 to grade-18 and the appellant again was ignored. (Copies of the notifications are annexed).
- 13) That vide Notification NO.SOE-I/W&SD/4-53/70 dated 31.12.2008 the said junior officers previously promoted from grade-17 to grade-18 were further moved-over from grade-18 to grade-19. The said officers were much junior than the appellant. (Copy of the notification is annexed).
- 14) That because of the assurance by the then Chief Minister, that the appellant will be promoted, the appellant withdrew his service appeals from the Hon'ble NWFP Services Tribunal, Peshawar and waited for blessing of the Govt. till date, however, with no fruitful results.
- 15) That by all these facts narrated above it is clear that the appellant time and again was subjected to humiliation by the department, however, nothing could be found against the appellant and thus he remained in service but without his due right i.e. right of promotion.
- 16) That being greatly dishearted and disappointed the appellant again knocked the door of this court submitting an appeal under No. 1758/2009. (copy attached)

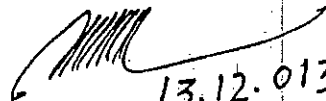


- 17) That the appeal filed before this Hon'ble Tribunal as mentioned above under No. 1758/2009 was decided dated 19.01.2012 deciding all the merits of the case, discussing all the aspects and finally accepting the appeal of the appellant for proforma promotion from the due dates directing the respondents to take up the promotion of the appellant in P.S.B. within three months. (Copy attached)
- 18) That the respondent department filed a petition for Leave to Appeal before the august Supreme Court of Pakistan against the said decision of this Hon'ble Tribunal but the same was dismissed by the august Supreme Court vide judgment dated 17.01.2013 and the leave was refused to the department. (Copy of the judgment is annexed).
- 19) That however, the name of the appellant was placed before the P.S.B. on 07.08.2013 but totally disregarding the decision of this Hon'ble Tribunal the P.S.B dropped the appellant with the remarks that the appellant was found not suitable for promotion showing no cogent reasons as per letter No.SOE/C&WD/13-5/2009 dated 11.09.2013 communicated to the Honourable Service Tribunal. (Copy of the letter is annexed).
- 20) That appellant filed a Departmental Appeal on 12.09.2013 but the same has not been responded too and the time of ninety days elapsed, hence this appeal before this Hon'ble Tribunal. (Copy of appeal is annexed).
- 21) That the earlier decision dated 19.01.2012 of this Hon'ble Tribunal is self-explanatory and through this order the appeal of the appellant has been accepted for the proforma promotion from due dates to the next higher grades but the P.S.B officers kept their ears deaf/ took the case of the appellant as a routine. Thus the finding of P.S.B. are not sustainable in the eyes of law and the appellant is entitled to his due proforma promotions w.e.f. due dates with all back benefits.


*(Signature)*  
9-1-18

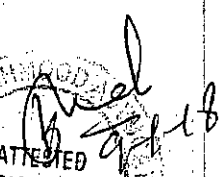
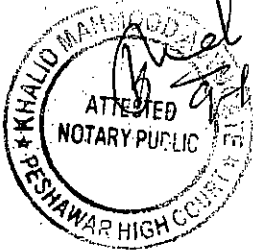
75

It is, therefore, prayed that this hon'ble Tribunal may kindly order for the implementation of its order dated 19.01.2012 (proforma promotion of the appellant from Grade-17 to 18 w.e.f. 08.02.2003 and from Grade-18 to 19 w.e.f. 31.12.2008 with all back benefits i.e. the dates juniors were promoted) as against the said decision of this honourable Tribunal dated 19-1-2012 no order from the august supreme court exists.

  
Appellant 13.12.013

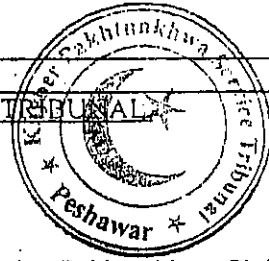
Through

  
Javed A. Khan  
Advocate Supreme Court


  


76

| S.No | Date of order proceedings | Order or other proceedings with signature of judge or Magistrate  |
|------|---------------------------|---|
| 1    | 2                         | 3   |
|      | 19.10.2016                | <p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u><br/><u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO. 1608/2013<br/>(Nazir Ahamd Khan-vs- Chief Secretary Govt: of Khyber Pakhtunkhwa Civil Secretariat Peshawar, and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:</u></p> <p>Appellant with counsel (Mr. Ijaz Anwar and Mr. Sajid Amin, Advocates) and Mr. Muhammad Jan, GP for respondents present.</p> <p>2. Nazir Ahmad Khan, the appellant herein was appointed as Assistant Engineer in BPS-17 through Public Service Commission on 22.11.1978 and retired in the same scale (BPS-17) on 10.06.2010 on attaining the age of superannuation. For his promotion (proforma) in the next higher grade BPS-18 (and above) with all back benefits; he instituted service appeal No. 1758/2009 in this Tribunal which was allowed vide judgment dated 19.01.2012 in the following terms:-</p> <p style="padding-left: 40px;">"Consequently, on the acceptance of the appeal, the concerned authorities in the respondent-department are directed to place case of the appellant for promotion to the next higher pay scales before Provincial Selection Board (PSB) within a period of three months under intimation to the Registrar of this Tribunal. There shall, however, be no order as to costs".</p> |



ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Against this judgment, the august Supreme Court of Pakistan also declined leave to appeal vide its order dated 17.01.2013 and directed the respondents that order of the Tribunal be implemented. Resultantly proforma promotion case of the appellant was put before PSB. The PSB in its meeting held on 07.08.2013 regretted his case for the reason given below:-

"Before retirement a reference was received from CE(North) C&W Peshawar regarding tender of the works shown as advertised in daily Surkhab dated 21.01.2010 which on verification was found fake hence his promotion was deferred in PSB meeting held on 05.04.2010 in the meanwhile he stands retired from service on 10.06.2010 on attaining the age of superannuation and the enquiry proceedings was stopped in light of FR-54(A). The Board observed that if he was not retired from service due to attaining the age of superannuation enquiry proceedings would have initiated against him and he would not have been recommended for deferment. Flexibility of stopping departmental proceeding in the light of FR-54(A) is allowed due to attaining the age of superannuation by the officer/official. It does not mean that there is no pending enquiry against him. His PER for the period from 01.01.2006 to 28.02.2009 are not available as he was remained under suspension/dismissed from service and waiting for posting. The Board considered his proforma promotion to the post of Executive Engineer BPS-18 in pursuance of Service Tribunal Khyber Pakhtunkhwa judgment dated 19.01.2012 and august Supreme Court of Pakistan judgment dated 17.01.2013 and did not find him suitable for promotion due to his chequered service

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**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



record".

This decision was conveyed to the appellant vide impugned order dated 11.09.2013, hence this service appeal under Section 4 of the Khyber-Pakhtunkhwa Service Tribunal Act, 1974, for the following:-

Appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 (Amended 2013) for proforma promotion of the appellant in the next higher grade of BPS-18 and above with all back benefits while setting aside the impugned order dated 11.09.2013 whereby the PSB not found the appellant suitable, without any reason, for proforma promotions communicated to this Hon'able Tribunal vide letter No. SOE/C&WD/13-5/2009 dated September 11, 2013.

3. Arguments heard and record perused.

4. Learned counsel for the appellant expressed with a heavy-heart that decision dated 07.08.2013 of the PSB was unlawful, whimsical, based on arrogance shown to the decisions of highest forums of the country dispensing justice to the aggrieved civil servants, was a lame excuse, was contrary to the facts on record, was discriminatory and against the spirit of justice. He argued that proforma promotion could not be refused to the appellant for the reason of a so called allegations of irregularity published in the Daily local news paper Surkhab. He argued that promotion could not be refused to a civil servant even on the ground of award of minor penalty, much-less on the ground of pending of any disciplinary proceedings or allegations in the newspaper. In support of his contention he placed reliance on 2000 SCMR 645, 2008 PLC(C.S)1019 and 2007 SCMR 682. He prayed that the instant appeal was competent as an unprecedented treatment had been meted out to the appellant the appeal may be accepted so that his grievances was redressed and the ends of justice were met. He rebutted the view that the instant appeal was hit by the principle of res-judicata.

ATTENDED

Signature  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

5. Learned G.P resisted the appeal by submitting that in compliance with the judgment of this Tribunal dated 19.01.2012 and order of the august Supreme Court of Pakistan dated 17.01.2013 case of the appellant for proforma promotion was duly considered by PSB on its meeting on 07.08.2013 and it was not found a suitable case for promotion. He argued that the instant appeal was not maintainable and was hit by the principle of res-judicata. He submitted that the appeal may be dismissed.

6. We have gone through the record with the able assistance of learned counsel for the appellant and learned GP for the respondents and have given our anxious consideration to the arguments advanced for the parties. It was observed that prior to the impugned PSB meeting held on 07.08.2013 a working paper for promotion of the appellant was prepared on 25.03.2010 for an earlier PSB meeting and the following remarks were recorded regarding the appellant in the said working paper:-

“The PSB in its meeting held on 29.12.2009 recommended to defer his promotion on the basis of pending inquiry regarding irregularities in the construction/repair of roads in district Chitral(Annex-I). Now the officer has been exonerated from the charges leveled against him (annex-III) and is retiring from Govt. service w.e.f 11.06.2010. The officer has passed the Departmental Professional Exam and his PERs for the period 2009 area available. He got 68.57 score out of quantification of PERS”.

It further revealed from record that promotion case of the appellant was lastly considered in the PSB meeting held on 05.04.2010 and his case was deferred as some enquiry was pending against him. The above situation shows that prior to his retirement the appellant case for promotion was deferred and not ejected (superseded) in the PSB meeting on 29.12.2009 and meeting on 05.04.2010. It is

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*[Signature]*  
 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

also evident from record that by that time the allegations against the appellant had already come in the Daily Surkhab; hence despite these allegations when once the Tribunal in its judgment dated 19.01.2012 which was also not interfered with by the august Supreme Court of Pakistan in its order dated 17.01.2013 directed that his case may be placed before PSB, it was evident that the said transaction became closed transaction which could not be reopened by PSB in its impugned meeting held on 07.08.2013. It is also evident that promotion case of the appellant was not rejected in the PSB meeting held on 29.12.2009 and 05.04.2010 and his case was only deferred meaning whereby that with the removal of the shortcomings lacuna appellant would be entitled for promotion. We are, therefore led to the considered view that decision of PSB in its impugned meeting held on 07.08.2013 in the above circumstances of the case, appears not to be justified and case of the appellant had not been legally and meaningfully considered as required. As a result of the fore-going, we are constrained to remit the case again to the respondent-department to be placed before PSB. Needless to mention that the PSB decision of 07.08.2013 stands set aside. Parties are however, left to bear their own costs. File be consigned to the record room.

Announced  
 19.10.2016 *Sd/- P. Bakhsh Shah, Member*  
*Sd/- Abdul Latif, Member*

*[Signature]*  
 Certified to be true copy  
 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

ANN  
 19.10

Date of Presentation of Application 11-11-2016  
 Number of Words 2400  
 Copying Fee 14-00  
 Urgent 2-00  
 Total 16-00  
 Name of Copyist [Signature]  
 Date of Completion of Copy 11-11-2016  
 Date of Delivery of Copy 11-11-2016



81

WORKING PAPER FOR PROVINCIAL SELECTION BOARD

SUBJECT: PROFORMA PROMOTION IN RESPECT OF ENGR. NAZIR AHMAD ASSISTANT ENGINEER BS-17 (RETIRED) TO THE RANK OF EXECUTIVE ENGINEER (BS-18) WITH ALL BACK BENEFITS IN LIGHT OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Engr. Nazir Ahmad Assistant Engineer BS-17 (retd.) C&W Department had filed service appeal in Khyber Pakhtunkhwa Service Tribunal on 13.12.2013 for promotion to next higher scale i.e. BS-18 & 19, with all back benefits. The main point of the subject service appeal is that (Annex-I):

"Appeal for the implementation of this Hon'ble Court decision dated 19.01.2012 (granting the appellant proforma promotion from Grade 17 to 18 w.e.f. 08.02.2003 and from Grade 18 to 19 w.e.f. 31.12.2008 with all back benefits, dates while juniors were promoted) as against the decision of this court's said order dated 19.01.2012 no order from the august Supreme Court of Pakistan".

2. The Service Tribunal decided the appeal vide its judgment dated 19.10.2016 (Annex-II):

"From record that promotion case of the appellant was lastly considered in the PSB meeting held on 05.04.2010 and his case was deferred as some enquiry was pending against him. The situation shows that prior to his retirement the appellant case for promotion was deferred and not ejected (suspended) in the PSB meeting on 29.12.2009 and meeting on 05.04.2010. It is also evident from record that by that time the allegations against the appellant had already come in the daily Surkhab, hence despite these allegations when once the Tribunal in its judgment dated 19.01.2012 which was also not interfered with by the august Supreme Court of Pakistan in its order dated 17.01.2013 directed that his case may be placed before PSB, it was evident that the said transaction became closed transaction which could not be reopened by PSB in its impugned meeting held on 07.08.2013. It is also evident that promotion case of the appellant was not rejected in the PSB meeting held on 29.12.2009 and 05.04.2010 and his case was only deferred meaning whereby that with the removal of the shortcomings lacuna appellant would be entitled for promotion. We are therefore led to the considered view that decision of PSB in its impugned meeting held on 07.08.2013 in the above circumstances of the case, appears not to be justified and case of the appellant had not been legally and meaningfully considered as required. As a result of the fore-going we are constrained to remit the case again to the respondent department to be placed before PSB. Needless to mention that the PSB decision of 07.08.2013 stands set aside".

3. The Scrutiny Committee of Law Department in its meeting held on 02.12.2016 declared the subject case un-fit for appeal in the apex court and decided to place it before Provincial Selection Board (Annex-III).

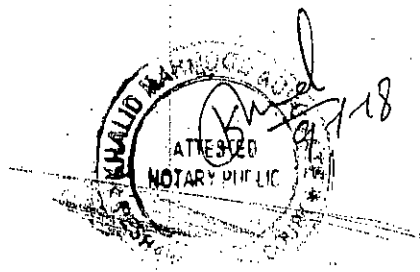
4. Earlier the Supreme Court on 17.01.2013 dismissed the civil petition in the subject case and decided as under (Annex-IV):

"..... The Tribunal has not directed the promotion of the respondent but had only ordered that his case for promotion be placed before the Provincial Selection Board and secondly, that the order of the Tribunal for placing the respondent's case before the Provincial Selection Board within a period of 03 months has not been complied with. Leave to appeal is therefore declined and the petition dismissed, with the direction that the order of the Tribunal shall be implemented".

5. The PSB in its meeting held on 07.08.2013 had considered the proforma promotion case of the said officer to the rank of XEN (BS-18) but did not find him suitable (Annex-V).

6. Since the Service Tribunal has again accepted the service appeal of Engr. Nazir Ahmad Assistant Engineer (BS-17) and the decision of the scrutiny committee of Law Department about it as un-fit for further appeal, the case is placed before the PSB for consideration (Annex-VI).

7. Quantification of PERs and seniority list are annexed at Annex VII & VIII.



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8. Engr. Nazir Ahmad Assistant Engineer (BS-17) C&W Department has since been retired from Govt Service on attaining the age of superannuation i.e. 60 years w.e.f. 10.06.2010, the Provincial Selection Board (PSB) is requested to determine the suitability of the said retired officer, in light of para-6 of the judgment of the Khyber Pakhtunkhwa Services Tribunal dated 19.10.2016 for proforma promotion to the next higher pay scales.

3

*[Signature]*  
SECRETARY  
C&W  
18/5/17

*[Signature]*  
ATTACHED  
NOTARY PUBLIC  
KHALID MAHMOOD  
PESHAWAR



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/13-18/2014  
Dated Peshawar, the October 12, 2017

83

To

✓  
The Registrar  
Service Tribunal  
Khyber Pakhtunkhwa  
Peshawar

Subject:

PROFORMA PROMOTION CASE OF ENGR. NAZIR AHMAD ASSISTANT ENGINEER BS-17 (RTD) TO THE POST OF EXECUTIVE ENGINEER BS-18 IN PURSUANCE OF SERVICE TRIBUNAL AND SUPREME COURT OF PAKISTAN JUDGMENTS

Respected Sir,

I am directed to refer to the subject noted above and to state that in light of Service Tribunal decision dated 19.10.2016 in Service Appeal No. 1608/2013, the case of proforma promotion in respect of Engr. Nazir Ahmad Assistant Engineer BS-17 (rtd) C&W Department to the rank of Executive Engineer BS-18 was processed and referred to Establishment Department for placing before Provincial Selection Board (PSB) for consideration. The PSB in its meeting held on 25.09.2017 considered the case in pursuance of Service Tribunal judgment dated 19.10.2016 and Supreme Court of Pakistan judgment dated 17.01.2013 and found Engr. Nazir Ahmad ineligible for promotion.

2. The report is submitted please.

Yours' faithfully

(USMAN JAN)

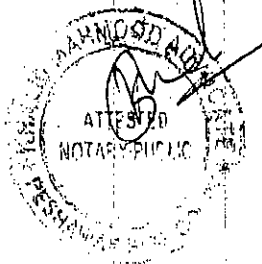
SECTION OFFICER (Estb)

Put up to the court with relevant appeal.

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar

Doodu



SECTION OFFICER (Estb)

Annexure ..... N

84

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**



S.A No. 43 /2018.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 28

Dated 10-01-2018

Nazir Ahmad Khan Deputy Director (Retired)

C & W Department District Chitral..... Appellant.

Versus


1. Chief Secretary Government of Khyber Pakhtunkhwa Peshawar.
2. Additional Chief Secretary Govt: of Khyber Pakhtunkhwa Peshawar.
3. Secretary S&GAD Govt: of Khyber Pakhtunkhwa Peshawar.
4. Secretary Establishment Govt: of Khyber Pakhtunkhwa Peshawar.
5. Senior Member Board of Revenue Govt: of Khyber Pakhtunkhwa Peshawar.
6. Secretary (C&W) Govt: of Khyber Pakhtunkhwa Peshawar..... Respondents

APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL  
ACT 1974 (AMENDED 2013) FOR  
PROFORMA PROMOTION OF THE  
APPELLANT IN THE NEXT HIGHER  
GRADE OF BPS-18 AND BPS-19 WITH  
ALL BACK BENEFITS

Filed to-day

Registrar  
10/1/18

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

WHILE

85

SETTING ASIDE THE IMPUGNED ORDER DATED OCTOBER, 12, 2017 (SOE/C&WD/13-18/2014) WHEREBY THE P.S.B ON 25.09.2017 DID NOT FIND THE APPELLANT ELIGIBLE FOR PROFORMA PROMOTION, NOT ACCEPTING THIS HONBLE COURT'S DECISION DATED 19.10.2016 IN FAVOUR OF THE APPELLANT.

Respectfully Sheweth:-

1. That the appellant had filed appeal No.1758/2009 before this Hon'ble Tribunal, which was accepted resulting a detailed order dated 19.01.2012 and directed the respondents to consider the name of the appellant in the P.S.B in its coming meeting within 03 months. (Pages 13 to 18)
2. That the respondents filed appeal in August Supreme Court of Pakistan vide C.P.No.170/2012 but their appeal was dismissed on 17.01.2013.  
(Pages 19, 20)
3. That however the name of the appellant was placed before P.S.B due to the order of Supreme Court as mentioned above, but the P.S.B. did not find the appellant suitable for promotion in its meeting dated 07.08.2013 communicated vide letter dated 11.09.2013.  
(Page 21).



4. That the appellant once again came to this Hon'ble Tribunal vide appeal No.1608/2013 challenging the aforementioned order of P.S.B. resulting decision in favour of the appellant by this Hon'ble Court dated 19.10.2016. (Pages 4-10 & 22-26 & 27 to 33).
5. That in compliance to order of this Hon'ble Tribunal dated 19.10.2016, the name of the appellant was once again considered in P.S.B. in its meeting dated 25.09.2017 communicated on October 12, 2017 that again P.S.B. did not find the appellant eligible for proforma promotion, without any reason. (Page 34).
6. That the appellant filed appeal to the Chief Minister against P.S.B. vide No.13867 dated 02.11.2017 which was however rejected vide letter dated 24.11.2017, but was not communicated to the appellant and the appellant who is resident of Chitral when came to office of Secretary C&W Peshawar on 05.01.2018 to know about the fate of the appeal, was disclosed the rejection of the appeal and on the same day copy was provided and receipt signature of the appellant was taken on the office copy, which was signed by the appellant putting date of 05.01.2018. Hence this appeal within time, however accompanied by an affidavit by the appellant showing the fact along with application for condonation of delay, if any, in the light of the fact explained above. (Pages 35 - 41)
7. That the appellant has already been declared with clean service record vide order dated 19.01.2012 and dated 19.10.2016 by this Hon'ble Court discussing all the facts in detail and also not been denied by the August Supreme Court vide its order dated 17.01.2013.

Hence there is no reason left with the P.S.B to deny proforma promotion of the appellant and the impugned order by the P.S.B. under letter dated November 24, 2017 is liable to be set aside. (Page 42).

8. That time and again this Hon'ble Tribunal in its judgment held that the pendency of any inquiry which was never initiated but remained pending (now stands abated under the FR Rules 54(A), only on future apprehensions the appellant cannot be deprived of proforma promotion in the eyes of law.

(Pages 92-95, 101 - 108, 115 - 121).

9. That the impugned orders of P.S.B dated September 11, 2013 and October 12, 2017 and November 24, 2017 have turned down/ denied the judgments, of this Hon'ble Tribunal and August Supreme Court as well, which is clear contempt of court. (Pages 21, 34 and 42).

IT is therefore, humbly prayed that according to the decision of this Hon'ble Court dated 19.01.2012 and 19.10.2016, the appellant may please be given proforma portion from BPS-17 to 18 w.e.f. 08.02.2003 and BPS-18 to 19 w.e.f. 31.12.2008 with all back benefits.

FACTS SUBMITTED VIDE APPEAL NO.1608/ 2013 IN THIS HON'BLE COURT REPRODUCED AS UNDER:-

- 1) That the appellant, a Civil Engineer, now since retired, joined the then B&R now C&W, through Public Service Commission as SDO, Grade-17, in the year 1978.

- 2) That the appellant since then was serving the Department with dedication and has got unblemished service record through recommended regularly for promotion in every ACR.
- 3) That the appellant was temporarily promoted as XEN on 11.10.1999 against vacant post till 25.03.2000 as Design Engineer in Malakand Division in the office of Director. His temporary promotion was further maintained w.e.f. 25.03.2000 till 03.02.2002 as XEN District Chitral in his original pay and scale.
- 4) That the temporary promotion position of the appellant was maintained but in own pay scale and was posted as:-
  - i) Design Engineer office of Chief Engineer (April 2002 - August 2003).
  - ii) XEN District Chitral (August 2003-April 2006).
  - iii) XEN District Chitral (March 2009 - June, 2010)
- 5) That on 04.12.2002, the then Secretary Works fabricated a false case against the appellant and was thus charge-sheeted to which the appellant submitted his reply on 28.12.2002.
- 6) That however, not satisfied with the reply of the appellant an inquiry was initiated with the result imposing minor penalties and then promotion of the juniors leaving the appellant.
- 7) That the appellant filed two appeals before the Hon'ble NWFP Service Tribunal, Peshawar vide Appeal

No.984/2003 and 598/2003 against the minor penalties and promotion of the juniors respectively.

- 8) That in fact minor penalties imposed upon the appellant was due to a false case against him for alleged irregularities in the scheme "Feasibility study and construction of RCC Bridge over Yarkhun at Mastuj with co-alignment of Parwak Mastuj Road (11 km)", thus the appellant was deprived of his due promotion in the normal course.
- 9) That both the aforementioned appeals were pending before the Hon'ble KPK Service Tribunal when vide letter No.SOE-I/W&S/1-6/78 dated Peshawar the 5.5.2005 by Secretary Works & Services through Section Officer (Estt-I) and the appellant was informed that the appeal already submitted to the Hon'ble Chief Minister, is pleased to accept the same subject to the condition that the appellant should withdraw his appeals aforementioned in the KPK Services Tribunal against the imposition of said minor penalties and promotion of juniors. (Copy of the letter is annexed).
- 10) That consequently vide said letter, the appellant submitted an application before the Hon'ble KPK Service Tribunal, Peshawar dated 07.05.2005 for withdrawal of both the aforementioned appeals i.e. against the imposition of penalties as well as for promotion to the higher grade. (Copy of the application is annexed).
- 11) That the Hon'ble KPK Services Tribunal was pleased to allow the appellant and withdraw the appeals vide

order dated 31.05.2005. (Copy of the orders is annexed).

- 12) That however, the then Hon'ble Chief Minister was pleased to withdraw the case of alleged irregularities aforementioned and the penalties imposed upon the appellant vide his order No.SOE-I/W&S/1-6/78 dated 09.06.2005, matter of promotion of the appellant to the higher grade was kept pending till date instead of promise as mentioned above. (Copy of the order is annexed).
- 13) That the only reason for withholding of promotion of the appellant was the stigma created by the aforementioned minor penalties and thus the appellant is, therefore, entitled to his due promotion as required under the law and circumstances of the case.
- 14) That the appellant is much senior when seniority list of Assistant Engineers was promulgated on 1.6.2002 where the appellant stood at serial No.1 i.e. on the top of the list for promotion to the next higher grade i.e. grade-18. (Copy of the seniority list is annexed).
- 15) That unfortunately during this period, vide notification No.SOE-I/W&S/4-5/75 dated 08.02.2003 officers junior to the appellant twenty in numbers had been promoted from grade-17 to grade-18 but the appellant was left though being senior most. Vide notification No.SOE-I/W&S/4-5/2004 dated 23.12.2004, 30 more junior officers were promoted from grade-17 to grade-18 and the appellant again was ignored. (Copies of the notifications are annexed).

- 16) That vide Notification NO.SOE-I/W&SD/4-53/70 dated 31.12.2008 the said junior officers promoted from grade-17 to grade-18 have now been moved-over from grade-18 to grade-19. The said officers were much junior than the appellant while they were promoted to grade-18 and now they have been placed in grade-19. (Copy of the notification is annexed).
- 17) That because of the assurance by the then Chief Minister, that the appellant will be promoted, the appellant withdrew his service appeals from the Hon'ble NWFP Services Tribunal, Peshawar and waited for blessing of the Govt. till date, however, with no fruitful results.
- 18) That it is important to mention here that because of the official fraction, the appellant was once removed from service on a frivolous charge in March, 2006, however, on appeal before the Hon'ble NWFP Services Tribunal, he was reinstated to his post with all back benefits in August, 2008. (Copy of the order is annexed).
- 19) That by all these facts narrated above, the appellant was time and again subjected to humiliation by the department, however, nothing could be found against the appellant and thus he remained in service but without his due right i.e. right of promotion to the grade for which he is entitled to promotion from grade-17 to grade-18 w.e.f. 08.02.2003 and from Grade 18 to 19 w.e.f. 31.12.2008 as per seniority list and grant of the same grades to his juniors as mentioned in the preceding paras.

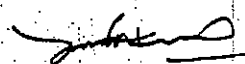
- 20) That the appeal filed before this Hon'ble Tribunal on 07.10.2009 was decided vide judgment dated 19.01.2012 (Copy of the judgment of this hon'ble Tribunal is annexed) through an exhaustive judgment deciding all the merits of the case discussing all the aspects and finally accepting the appeal of the appellant for proforma promotion from the due dates and this Hon'ble Tribunal directed the respondents to put and consider the promotion of the appellant in P.S.B. within three months. The respondent department filed a petition for Leave to Appeal before the august Supreme Court of Pakistan against the judgment of this Hon'ble Tribunal but the same was dismissed by the august Supreme Court vide judgment dated 17.01.2013 and the leave was refused to the department. (Copy of the judgment is annexed).
- 21) That however, the name of the appellant was placed before the P.S.B. on 07.08.2013 but totally disregarding the judgment of this Hon'ble Tribunal dropped the appellant with the remarks that the appellant was found not suitable for promotion showing no cogent reasons as per letter No.SOE/C&WD/13-5/2009 dated 11.09.2013 communicated to the Honourable Service Tribunal. (Copy of the letter is annexed).
- 22) That appellant filed a Departmental Appeal on 12.09.2013 but the same has not been responded too and the time of ninety days elapsed, hence this appeal before this Hon'ble Tribunal. (Copy of appeal is annexed).

23) That the earlier judgment/ decision dated 19.01.2012 of this Hon'ble Tribunal is self-explanatory, through this order the appeal of the appellant has been accepted for the proforma promotion of the appellant from due dates to the next higher grades but the P.S.B officers kept their ears deaf/ took the case of the appellant as a routine. Thus the finding of P.S.B. are not sustainable in the eyes of law and the appellant is entitled to its due proforma promotions w.e.f. due dates with all back benefits.

  
10.1.2018

Appellant

Through



Javed A. Khan  
Advocate Supreme Court

**AFFIDAVIT**

I, Nazir Ahmad Khan (appellant) do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Deponent



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**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**  
**S.A.NO.43/2018**

29.10.2018

Nazir Ahmad Khan  
 Retired Executive Engineer  
 C&W Division Chitral

.....Appellant

**VERSUS**

1. Chief Secretary Khyber Pakhtunkhwa Peshawar
2. Additional Chief Secretary Khyber Pakhtunkhwa Peshawar
3. Secretary to Govt. of KPK S&GAD Department, Peshawar.
4. Secretary to Govt. of KPK Establishment Deptt: Peshawar.
5. SMBR to Govt. of KPK Peshawar
6. Secretary to Govt. of KPK C&W Department, Peshawar

.....Respondents.

**REJOINDER TO THE COMMENTS OF THE RESPONDENTS.**

Respectfully Sheweth:

**FACTS**

1. On 08.02.2003 twenty juniors were promoted from BPS 17 to BPS 18 leaving the appellant unprompted due to Pending inquiry and minor Penalties.
2. During 2003 the appellant knocked the door of honorable service tribunal against the above mentioned action by the Government.
3. On 23.12.2004 again thirty junior were promoted from 17 to 18 leaving the appellant un-promoted due to the above mentioned pending inquiry & minor penalties.
4. The (2000 SCMR 645) & 2008 PLC (C.S) 1019 contains clear orders not to keep any officer un-promoted making the excuse of pending inquiries/minor penalties but following is the detail while the appellant have been left un-promoted due to pending inquiries /minor penalties.

- I. P.S.B meeting on 28-11-2002
- II. do 08-11-2004
- III. do 12-07-2005
- IV. do 12-11-2009
- V. do 29-12-2009
- VI. do 25-03-2010/ 05-04-2010

[ ~~Page 29 31~~  
~~32 35~~ ]

5. The decision of honorable Service Tribunal dated 19-01-2012 in my favour was challenged by the Government in the supreme court but the august Supreme Court ordered that the decision of the Service Tribunal should be placed before the PSB, the PSB did not obey the decision of this honorable court date 19-01-2012 saying that the appellant is not a suitable person for promotion. (SOE/C&W dated sept 11, 2013) ~~Page 3-8, 9-10, 11~~
6. Another decision of this honorable tribunal dated 19-10-2016 in favour of the appellant, though was not challenged in the august Supreme Court due to direction by law department, but the PSB in its meeting dated 25-09-2017 did not obey the above mentioned order of this honorable tribunal refusing to promote me. (SOE/C&W Oct, 12-2017) ~~Page 12, 16, 17-18, 19~~
7. As such the appellant has again knocked the door of this honorable tribunal during 2018(43/2018)
8. The respondents have the Plea that if I was not pensioned on 10-06-2010 attaining the age of superannuation than I had to face a case. The respondents use to give a horrific shape to a small and baseless matter, which they also can never prove that it was done by myself. The story of the case is re-written, again to be perused by this honourable Court as it was discussed in detail on 19-10-2016 and this honourable Court has ordered the issue to be a closed transaction in its decision dated 19-10-2016. ~~Page 16~~

However, during the Performance of daily routine office works in my office on 18-01-2010 as Executive-Engineer C&W Division Chitral, amongst the other letters etc. Prepared by the head Clerk, to be signed by me, a letter to Director Information Peshawar containing tender notice to be published in news-papers by the Director Information, calling tender for 03-02-2010 had been also signed by me. After signatures the daily routine paper works go back to head-clerk for further necessary action by him sending the signed letters to the related offices through Post Office or by peons and some time in case of emergency and being of important nature than through special-Messenger.

Calling tenders in any XEN office is a Job occurring frequently throughout the financial year. It is not one in a year which can be remembered by the XEN. The head-Clerk reminds the XEN a day before that tomorrow bids are to be opened and the XEN should be present in office. The head-Clerk also shows the tender notice published in newspaper /newspapers.

As stated above the tender notice signed by me on 18-01-2010 addressed to Director Information was published in daily Surkhab in its addition of 21-01-2010 calling bids for 03-02-2010. Therefore on 03-02-2010 the bids received, according to the tender notice published in daily Surkhab in its addition dated 20-01-2010. I had asked the head-clerk that why the tender notice was not published in "Mashriq" or "AAJ", he showed me the number of the Information Department printed below the tenders notice. I thought that the Director Information may had sent the tender notice to "surkhab" due to Low Costs of the works. The bids along with other documents were sent to the Superintending-Engineer Malakand Division for approval. All this is remembered to me now-a-days also, after 7-8 years, due to the reason that the said tender through "Daily Surkhab" became an issue during February 2010 to May 2010 and I had to submit a detailed report on 27-04-2010. The superintending-Engineer had asked the Director Information "had this tender notice been sent to Daily Surkhab by the Director Information". The Director Information had informed the Superintending-Engineer that the tender notice had directly been published in "Daily Surkhab" without the consultation of the Director-Information. However till sending the said received bids to the Superintending-Engineer as mentioned above, I was not aware that the above mentioned tender notice sent by me to the Director-Information Peshawar was published in "Daily Surkhab" without the Consultation of the Director Information. As such the Superintending-Engineer wrote a letter to the Chief-Engineer and the Chief-Engineer asked me to submit a report on the issue. As mentioned above I had submitted a report on 27-04-2010..... (Copy attached). The under consideration tender notice published on 21-01-2010 in "Daily Surkhab" Contained three works Costing (1) Rs. 4900000/= (2) Rs. 4800000/= (3) Rs. 1000000/=. There is no any restriction to publish tender notices in Daily Surkhab but the Director Information sends the tender notices to newspapers after receiving the same from XEN's of the Districts. I did not become doubtful as I myself had seen it from years that tender notices were being published in Daily Surkhab sent from various Districts of KPK and 2ndly the head-Clerk assured me by showing the number of Information Department printd below the tender notice and gave the impression that the tender was sent to Daily Surkhab by the Director Information.

~~Page 20, 21, 22~~  
~~24, 25, 28~~

CONCLUSION:- When I was telephonically informed by the Superintending-Engineer Malakand during March 2010, I cancelled the tender Carried out through "Daily Surkhab", prepared fresh tender notice by including the said three works been tendered through "Daily Surkhab" in the list of other mean while received works to be tendered, personally went to office of Director Information Peshawar and published the works in "Daily Mashriq" on 31-03-2010 Calling bids for 12-04-2010..... (Copy attached).

As such the above mentioned issue of tendering the three works through "Daily Surkhab" without Consultation of Director Information well in time was cancelled by me and fresh tender notice was published In "Daily Mashriq" through Director Information. Therefore the tender through "Surkhab" remained not workable, when become not workable remained not harmful if was harmful and became null and void.

According to the foregoing detailed factual discussion I again confirm it that I had no role in publishing the said three works in Daily Surkhab. Merely saying by Secretary C&W and other members of the P.S.B that it had been done by me or if they have the plea that being head of the department in the District I was responsible for the matter done by the head Clerk is not cogent, legal, rational answer to the question that who had done it.

In every District the Head-Clerks are the full in-charge of the administration of the XEN's offices. No XEN goes to Post Office to send official letters after signing and also it is not the Job of any XEN to visit various offices Carrying peon book in hand delivering official letters signed by him. If other XEN's have done or doing this Job than I can be held responsible that why I did not carry the tender notice to office of Director Information Peshawar personally. The Head-Clerk & Several other Clerks working under him are responsible for the Job of sending the official documents through Post Offices, through peons, through special messengers.

All the fore-going facts regarding the tender issue were discussed in detail during my promotion case hearings by this honourable Court on 19-01-2012, 19-10-2016. Also during the hearing in the August Supreme Court on 17-01-2013 the tender issue was raised by the department but the honourable Judges did not give importance to it, may be due to its Cancellation and becoming not workable before use. As such this honourable Court in its decision dated 19-10-2016 has ordered the issue of the tender to be a closed transaction.

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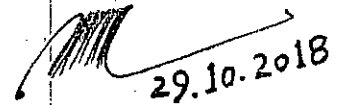
Therefore it is humbly Prayed that in the lights of its two decisions in my favour by this honourable Tribunal dated 19-01-2012 and dated 19-10-2016 as from the August Supreme Court there is nothing against these orders, this honourable Tribunal may graciously order my pro-forma promotion from BPS 17 to BPS 18 w.e.f 08-02-2003 & from BPS 18 to BPS 19 w.e.f 31-12-2008 (dates Juniors were Promoted) with all back benefits.

Through



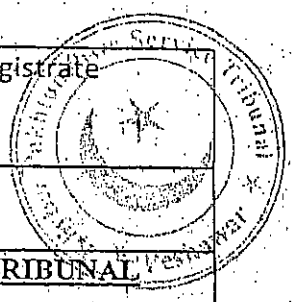
Javed A. Khan  
Advocate  
High Court/Supreme Court

Appellant



29.10.2018

Nazir Ahmad Khan  
XEN/Deputy-Director  
(Retired O.P.S)  
C&W Deptt: KPK



| Sr. No  | Date of order/proceedings | Order or other proceedings with signature of Judge or Magistrate |
|---|---------------------------|--|
| 1   | 2                         | 3  |
| <p align="center"><b>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</b></p> <p align="center"><u>Appeal No. 43/2018</u></p> <p>Date of Institution ... 10.01.2018<br/>Date of Decision ... 17.01.2020</p> <p>Nazir Ahmed Khan Deputy Director (Retired) C&amp;W Department<br/>District Chitral. -----Appellant</p> <p align="center"><u>Versus</u></p> <p>Chief Secretary Government of Khyber Pakhtunkhwa Peshawar and<br/>five (05) others -----Respondents</p> <p>Muhammad Amin Khan Kundi.....Member (J)<br/>Mr. Hussain Shah .....Member (E)</p> <p>17.01.2020 <u>JUDGMENT</u></p> <p><u>Mr. HUSSAIN SHAH</u>:-Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney for the respondents present.</p> <p>2. It is the third round of litigation as the case came up before this Tribunal in appeal No.1758/2009 which was disposed of by accepting that appeal by this Tribunal in its order dated 19.01.2012 wherein the respondents were directed to consider the name of the appellant in PSB within three (03) months. That order was challenged by the respondents in the august Supreme Court of Pakistan vide C.P.No. 170/2012 which was dismissed on 17.01.2013. Subsequently the name of the appellant was put before the PSB but the appellant was not found suitable for promotion which was communicated to the appellant on 11.09.2013. In the second round of litigation the appeal No. 1608/2013 was preferred which was decided on 19.10.2016 wherein it was observed by the Tribunal that the decision of the PSB in its impugned meeting held on 07.08.2013 appears not to be justify and the case of the appellant had not been legally and meaningfully considered as required. With the above observation the service Tribunal in the same judgment remitted again</p> |                           |  |

*[Handwritten signature]*

**ATTESTED**

*[Signature]*  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**ATTESTED**

appeal to the respondent department to be placed before the PSB and the decision of the PSB dated 07.08.2013 was set aside. Resultantly the PSB though considered the case of promotion of the appellant but did not found eligible for pro-forma promotion. Being aggrieved again, the appellant preferred departmental appeal on 02.11.2017 which was rejected vide letter dated 24.11.2017 but the rejection order was not communicated to the appellant. To pursue the outcome of his appeal the appellant got the copy of the rejection order dated 24.11.2017 as alleged in Para 6 of the appeal during his visit to the office of respondent No.6 on 05.10.2018. The appellant preferred the instant service appeal on 10.01.2018 with the prayer that according to the decisions of the service Tribunal dated 19.01.2012 & 19.10.2016 the appellant may be allowed pro-forma promotion from BPS-17 to 18 with effect from 08.02.2003 and promotion for BPS-18 to 19 with effect from 31.12.2008 with all back benefits.

3. The learned counsel for the appellant argued that the appellant was appointed on the recommendation of Public Service Commission as SDO in BPS-17 in the year 1978. The appellant was assigned the charge of Executive Engineer on 11.10.1999 against the vacant post and he work till 25.03.2000 as Design Engineer in Malakand Division. On 25.03.2000 he was posted as XEN in his own pay and scale in District Chitral wherein he performed his duties as XEN till 03.02.2002. He was retained at that status till June 2010 at intervals. He further argued that as a result of disciplinary proceedings minor penalty was imposed and due to the minor penalties his erstwhile juniors were promoted on regular basis to the higher post. Being aggrieved he preferred two (02) service appeals in the service Tribunal. Out of these two (02) one was against the minor penalties and another was against the promotion of his juniors.

ATTESTED

EXAMINER  
Shyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ATTESTED

During the pendency of service appeals of the appellant was officially informed vide letter No. SOE-IW&S/1-6/78 dated 05.05.2005 that his appeal before the Chief Minister had been accepted on the condition that the appellant should withdraw the aforementioned appeal in the service Tribunal. The appellant submitted application accordingly before the service Tribunal on 07.05.2005 to withdraw both his appeal. This Tribunal accepted the application of the appellant vide order dated 31.05.2005. Furthermore, the minor penalties were withdrawn by the competent authority but his appeal for consideration the promotion to the higher post was not decided. He further argued regarding the seniority position of the appellant that according to the seniority list of Assistant Engineers on 01.06.2002 the appellant was at serial No.1. He further pointed out that vide notification No. SOE-IW&S/4-5/75 dated 08.02.2003 twenty (20) officers, juniors to the appellant, were promoted from BPS-17 to BPS-18. Similarly vide another notification No. SOE-IW&S/4-5/2004 dated 23.12.2004, thirty (30) more junior officers were promoted from BPS-17 to BPS-18 and the appellant remained in his substantive position of Assistant Engineer in BPS-17. Further mentioned that vide notification No. SOE-IW&SD/4-53/70 dated 31.12.2008 his erstwhile junior in substantive grade to BPS-17 were promoted /moved-over from 18 to grade 19. Learned counsel for the appellant further stated that in March 2006 the appellant was removed from service and being aggrieved preferred service appeal before the service Tribunal and he was reinstated to his post with all back benefits in August 2008. Learned counsel for the appellant further contended that the fact sheets of the entire career of the appellant speaking loudly that he was subjected to consistent humiliation by the respondents and despite the repeated inquiries nothing substantially could be prove against him and

ATTESTED

EXAMINER  
 M. A. Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

ATTESTED



he remained in service till his superannuation despite the facts that he was consistent kept deprived for promotion to the higher grades and is erstwhile juniors were regularly promoted from BPS-17 up to BPS-19. Further contended that even despite the repeated direction of the service Tribunal and the Supreme court the respondents had not change their illegal and unjustifiable stance till the end of his career. He further alleged that in violation of the principal of justice and good governance the respondent department treated the appellant in a way which smells personal prejudice and grudges. He further referred to the points discuss in the order of this Tribunal dated 19.01.2012 in the Service appeal No.1758/2009

*"On the basis of judgments of the superior courts, the Lahore High Court held in the judgment reported as 2008 PLC (C.S) (Lahore High Court), that promotion could not be withheld on the ground either imposition of minor penalty or pendency of departmental inquiry proceedings against a civil servant. Ironically, on each occasion the appellant was denied promotion also on the ground that "his behavior with seniors was not desirable" but on the other hand, the respondent had to admit that there was nothing adverse against him in his PERs, and that he has always been recommended to the PSB because his service record was generally good. It, therefore, appears to us that the appellant has been victimize, perhaps, because of having not so cordial relations with his seniors. Last but not the least, despite admitting the fact in the letter of department dated 06.09.2011 that pending inquiry, if any, stood abated against a government servant after his retirement, the appellant was not promoted and he retired from service in the same pay scale in which he was inducted into service, even after rendering services for several decades; and a number of officers much junior to him were promoted. The grounds cited for his super session/deferment are not sustainable in law as, pointed out above,*

ATTESTED

EXAMINER  
Ayaz Panchtunkhwa  
Service Tribunal,  
Peshawar

ATTESTED

*pendency of inquiry or even imposition of minor penalties were not valid grounds for withholding promotion of a civil servant. The appellant was otherwise the senior most and there was nothing adverse in his service record, therefore, he was eligible for promotion during service, which right of him would continue even now for benefit in his pension."*

4. The learned District Attorney contested the facts, grounds of the appeal and arguments of the learned counsel for the appellant and argued that in compliance of the orders of this Tribunal and August Supreme Court the promotion case were placed before the Provincial Selection Board for consideration but the PSB could not find him suitable for regular promotion nor for pro-forma promotion. He further argued that according to rule 7 of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer) Rules, 1989 the concerned appointing authority, as in the instant case, the Chief Minister shall ordinarily appoint on promotion any officer on the recommendation of the Provincial Selection Board. He further explained that being the statutory power of the Provincial Selection Board to determine the suitability of an officer for appointment on promotion and made the recommendation to the appointing authority accordingly. He further contended that the PSB and exercise of statutory power did not recommend the appellant for promotion on the ground mentioned in the minutes of the various meeting whenever the case of promotion was placed before it for consideration hence the instant service appeal does not carry any merit nor is not based on any new facts are grounds, therefore, the same may be dismissed with costs.

5. Arguments heard. File perused.

6. After the detailed scrutiny of the documents record on file arguments and counter arguments of learned counsel for the appellant and learned District Attorney, this Tribunal is of the view that despite the

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ATTESTED

detail judgment of this Tribunal dated 19.01.2012 in service Appeal No. 1758/2009 wherein this Tribunal explicitly referred to the appellant being victimized (Para 5 of the judgment) the appellant could not get his right of carrier progression during his active service as well as after post retirement and suffered heavy financial losses in term of salary and pension despite a long carrier he could not get the chance of promotion from the post against which he was appointed on the recommendation of the Public Service Commission. This recurring and repeated treatment of the concerned authorities in the department could definitely affect the mental psychological status of any person as it is a common human psychological principle. We understand the significance of the statutory capacity and power of Provincial Selection Board to the extent of making recommendations for appointment on the basis of promotion of a civil servant against a higher post are otherwise but we also appreciate that such powers are exercised in the light of yard sticks/criterion established in the relevant promotion policy in the context of the provision of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion Transfer) Rules 1989 and the provision of the Khyber Pakhtunkhwa Civil Servant Act, 1973 as well as in the broader context of the constitution of Islamic Republic of Pakistan;

7. As mention earlier that all relevant facts/grounds has been contested and adjudicated repeatedly through court proceedings and judicial scrutiny and at each time whenever the request of the appellant came before the court of laws the cases were decided on merit and direction were issued to the respondent department for placing before the competent forum which is the PSB in the instant case but still the appellant is kept deprived of his judicious service benefits specifically the financial benefits of promotion and resultant pension after retirement

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

ATTESTED

equivalent to the position higher than his substantive post of Assistant Engineer in BPS-17.

8. This Tribunal partially accept the instant service appeal with direction to respondent No.6 to take up the case with respondent No.1 for appointment of a scrutiny committee at the level of respondent No.2 with comprising of Secretary law, Secretary Finance and Secretary Establishment as respondent No.4 to consider the case of appellant for the purpose of pro-forma promotion in the light of the judgment of various judicial directions and in humanitarian grounds for making the recommendation to the PSB. Parties are left to bear their own costs. File be consigned to the record rooms.

*Muhammad Amin*  
(Muhammad Amin Khan Kundi)  
Member

*Hussain Shah*  
(Hussain Shah)  
Member

ANNOUNCED

17.01.2020

Date of Presentation of Application 21-02-2020  
Number of Words 3200  
Copying Fee 34-00  
Urgent -  
Total 34-00  
Name of Copyist [Signature]  
Date of Completion of Copy 04-06-2020  
Date of Delivery of Copy 04-06-2020

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

**ATTESTED**

Annexure..... 0

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GOVT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the August 05, 2021

**Notification**

**No.SOE/C&WD/13-2/2018:** In light of the court decision dated 17.01.2020 and on the recommendations of the Provincial Selection Board (PSB), the Competent Authority is pleased to promote Engr. Nazir Ahmiad Ex-Assistant Engineer/SDO BS-17 to the post of Executive Engineer (BS-18) of C&W Department for proforma promotion w.e.f. 09.06.2010 (one day before of his retirement).

SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

**Endst of even number and date**

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. Chief Engineer (North) C&W Swat stationed at Swat
3. Superintending Engineer C&W Circle Dir Lower
4. Executive Engineer C&W Division Chitral Lower/Upper
5. District Accounts Officer Chitral
6. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar
7. PS to Secretary Establishment Deptt, Khyber Pakhtunkhwa, Peshawar
8. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar
9. PS to Secretary C&W Department Peshawar
10. Engr. Nazir Ahmad Assistant Engineer (retired) C&W Department
11. Office order File/Personal File

*Zaam*  
05.8.2021  
(ZAHOOR SHAH)  
SECTION OFFICER (Estb)

Annexure.....P

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

Implementation Petition No. 151 /2021  
In  
Appeal No.43/2018

Nazir Ahmad Khan, Deputy Director (Retired),  
C&W Department, Khyber Pakhtunkhwa, Peshawar.

..... PETITIONER

**VERSUS**

- 1- The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary C&W Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

..... RESPONDENTS

**IMPLEMENTATION PETITION FOR DIRECTING THE**  
**RESPONDENTS TO OBEY THE JUDGMENT DATED**  
**17-1-2020 IN LETTER AND SPIRIT**

**R/SHEWETH:**

- 1- That the petitioner filed service appeal bearing No. 43/2018 before this august Service Tribunal for his pro-forma promotion to the next higher grade of BPS-18 and BPS-19 with ancillary relief therein as well as with all back benefits.
- 2- That the appeal of the petitioner was heard and the appeal of the appellant was partially accept vide judgment dated 17-01-2020 and the operative part of the judgment is as under, "***This Tribunal partially accept the instant service appeal with the direction to respondent No.6 (Secretary C & W) to take up the case with respondent No.1 (Chief Secretary) for appointment of a scrutiny committee at the level of respondent No.2 (Additional Chief Secretary) with comprising of Secretary law, Secretary Finance and Secretary Establishment as respondent No.4 to consider the case of appellant for the purpose of pro-forma promotion in the light of the judgment of various judicial directions and in humanitarian grounds for making the***

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**recommendation to the PSB".** Copy of the judgment dated 17-01-2020 is attached as annexure .....A.

- 3- That after obtaining copy of the judgment dated 17-01-2020 the petitioner submitted the judgment mention above for its implantation to the Department concerned but the respondent Department are not willing to obey the judgment dated 17-01-2020 in letter and spirit. That the respondents on their own whims and wishes issued the Notification dated 05-08-2021 whereby the petitioner has been granted pro-forma promotion from BPS-17 to BPS-18 w.e.f. 9.6.2010 instead of w-e-f 08-02-2003 and further promotion to BPS-19 has been denied to the petitioner without any reason and clear justification. Copy of the Notification is attached as annexure ..... B.
- 4- That the petitioner has no any other remedy but to file this implementation petition.

It is therefore, most humbly prayed that the respondents may be directed to implement the order dated 17.01.2020 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

PETITIONER

  
NAZIR AHMAD KHAN

23.8.2021

THROUGH:

  
NOOR MOHAMMAD KHATTAK  
ADVOCATE

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

Execution Petition No. 151/2021  
In Service Appeal No. 43/2018

Nazir Ahmad  
D/D (Retired)  
C&W Depptt:

**Appellant**

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa  
Through Chief Secretary & Others.

2. Provincial Selection Board (PSB)  
Khyber Pakhtunkhwa Peshawar.

**Respondents**

**REJOINDER BY THE APPELLANT TO  
THE REPLICATION OF THE RESPONDENTS**

Respectfully Sheweth,

1. That this honourable Service Tribunal while announcing the decision of the case on 17.01.2020 had told that at Present it is being accepted partially while partially it was left on the committee that if the committee solves the problems of the appellant then well and good, if the committee not agreed, the case will be reconsidered in the Tribunal.

In its 1<sup>st</sup> decision dated 19.01.2012 and in its 2<sup>nd</sup> decision dated 19.10.2016, this honourable Tribunal has accepted the appeal fully. It is principal that when in previous decisions if a matter is partially been approved, on the humble request of any applicant the court gracefully reconsiders the case for granting in full but in the case of the appellant it is opposite as in previous two decisions appeal is accepted in full but in 3<sup>rd</sup> as partial without any new arguments / counter arguments, which is against jurisprudence and



humanitarianism. The 3<sup>rd</sup> decision as mentioned above is not cancelling the 1<sup>st</sup> & the 2<sup>nd</sup> decisions but says that **“the matter may be considered by the committee / PSB in the lights of the previous two decisions”**

The honourable Ex-Member (J) Muhammad Amin Khan Kundi and the honourable Ex-Member (E) Hussain Shah may please be asked / requested to take their consent on the 3<sup>rd</sup> decision by them that on one side they say / order to consider the 1<sup>st</sup> and 2<sup>nd</sup> decisions where appeal has been accepted fully while on the other side they in their decision say that appeal is accepted partially. Also if the said honourable members who have given the 3<sup>rd</sup> decision of the case had the intention of bringing the previously two decisions (been fully accepted ) to half (now the view point of the respondents) than the honourable members had not to give reference to previous decisions in which appeal of the appellant has fully been accepted. Also the members of the 3<sup>rd</sup> decision would had given reasons that due to such and such reasons they do not agree with 1<sup>st</sup> and 2<sup>nd</sup> decisions and are constrained to accept the appeal partially, but it is not there in their decision (3<sup>rd</sup> decision).

Therefore it is clear that in 1<sup>st</sup> & 2<sup>nd</sup> decisions appeal acceptance is in full but how in 3<sup>rd</sup> without cancelling the 1<sup>st</sup> & 2<sup>nd</sup>, without any objections on 1<sup>st</sup> & 2<sup>nd</sup> decisions appeal is being accepted in partial in the 3<sup>rd</sup> while in this 3<sup>rd</sup> decision reference has been given to consider /take action in the case according to 1<sup>st</sup> & 2<sup>nd</sup> decisions. Therefore the Ex-honourable members who have given the 3<sup>rd</sup> decision may graciously be asked / requested for their consent regarding the points raised above. The 3<sup>rd</sup> decision however mentions that appeal is for promotion to BS 18 w.e.f 08.02.2003 , BS 19 w.e.f 31.12.2008 with all back benefits (Page 2 para 2 end). If however the committee and the PSB not considering the 1<sup>st</sup> and 2<sup>nd</sup> decisions of the case, only insist on partial

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acceptance of the 3<sup>rd</sup> decision than also out of two i.e promotion from 17 to 18 w.e.f 08.02.2003 & 18 to 19 w.e.f 31.12.2008, one i.e 17 to 18 w.e.f 08.02.2003 as a whole had to be implemented but PSB have implemented it from 09.06.2010 (One day before retirement) instead of 08.02.2003 which becomes a useless paper for the appellant after adjudication of about twenty years as without back benefits what remains there for the appellant to become joyful.

2. That the discussion by the PSB as available in written shape **“ the board while considering his proforma promotion had observed that an inquiry proceeding against him was not finalized and decided on merit but the inquiry was abated due to his retirement on attaining the age of superannuation, therefore he was not eligible for Proforma promotion”** is not correct as the matter was raised in the tribunal by the respondents during the hearings of the case in Year 2011. The Tribunal ordered to submit all the record of the expected inquiry against the appellant (if was not retired due to age of superannuation). The record was submitted by the department arguments from both side were heard during a few hearing but the honourable Tribunal did not agree with the respondents view of point to dismiss the appeal of the appellant for the sake of the pending inquiry due to the fact that the pending inquiry was not about any serious nature matter. As such in its 1<sup>st</sup> decision dated 19.01.2012 accepted the appeal for both BS 17 to BS 18, BS 18 to BS 19 promotions. Again in its 2<sup>nd</sup> decision dated 19.10.2016 the honourable service Tribunal has given remarks about the above mentioned pending inquiry when was raised by the respondents that **“ also evident from record that by that time the allegations against the appellant had already come in the daily surkhab, hence despite these allegations when once the Tribunal in its**

judgement dated 19.01.2012 which was also not interfered with by the august Supreme Court of Pakistan in its order dated 17.01.2013, directed that his case may be placed before PSB it was evident that the said transaction became closed transaction which could not be reopened by PSB by its impugned meeting held on 07.08.2013 ” (Page 5 / Pare 6<sup>th</sup> end).

Therefore, while the respondents took the pending inquiry case in the Tribunal in the year 2011 with full record, with arguments and counter arguments as explained above in detail than why and how again and again this matter is being discussed by the respondents even recently in 2022.

3. That the appellant was posted / worked on higher grade posts of BS 18 from year 2000 to 2010 with an additional charge of the post of BS 19 and worked on this post of BS 19 from April 30, 2009 to June 10, 2010 but keeping on own pay scale i.e BS17.

The said Committee & PSB has discussed that performance is required to be evaluated for promotion to next grade. PER reports i.e performance evaluation reports had been given for the performance of working / duty on higher posts as mentioned above. In the working paper of PSB meeting held on 31.07.2021 it is admitted by the respondents that **“The pen picture recorded by various reporting and counter signing officers during his service highlighted his qualities as hardworking Engineer, technically sound, intelligent, laborious and a honest person. Moreover, the reporting and countersigning Officers also marked him as fit for promotion”**

While working on the higher posts of 18 & 19 in own pay Scale of 17 for 10 years as mentioned above, performance evaluation reports had been given to the appellant on the basis of satisfactory working on higher posts of 18 & 19 which have also been admitted by the respondents in

written in working paper of PSB meeting dated 31.07.2021 as mentioned above in inverted commas. As discussed above performance evaluation reports of the appellant for working on higher posts of 18 & 19 are available with the respondents given to the appellant for experience of working on the higher posts. Therefore the excuse of the respondents/PSB saying that performance evaluation, of the appellant are required for promotions, but the appellant is retired, is baseless.

4. That on 01.06.2002 and on 30.06.2004 the appellant was at serial No.1 of the seniority list but on 08.02.2003 and on 23.12.2004, 20(+) 30 = 50 Juniors were promoted from BS 17 to BS 18 leaving the appellant unpromoted just making the excuse of minor Penalties and pending enquiry while the Superior Courts (2000 SCMR 645 ),(2008 PLC (C.S)1019) orders not to deprive any one for the given minor penalties and pending inquiries. Since 2002-2003 the appellant is in this honourable Tribunal for promotions. In spite of (3) decisions dated 19.01.2012 dated 19.10.2016 dated 17.01.2020 in favour of the appellant by this honourable tribunal, the PSB has given promotion to the appellant from BS 17 to BS 18 w.e.f 09.06.2010 (one day before retirement ) instead of w.e.f 08.02.2003 (vide order dated 05.08.2021) while promotion to BS 19 from 31.12.2008 (Juniors were moved to one more high step)has been denied by the PSB, which are unjustified and against the (3) decisions of this honourable Tribunal as mentioned above.
5. That the following is the detail of the PSB meetings, in every of these meetings the appellant has been kept deprived of promotion from BS 17 to BS 18 due to minor penalties and pending inquiries while the Superior Courts orders say that promotions cannot be refused due to minor penalty / penalties and pending inquiry / inquiries. (2000 SCMR 645), 2008 PLC (C.S) 1019

**Detail of PSB Meetings:**

|   |                         |   |
|---|-------------------------|---|
| 1 | 28.11.2002              | The appellant was not promoted with the plea of minor, penalties and pending inquiries. |
| 2 | 08.11.2004              | - do -  |
| 3 | 12.07.2005              | - do -  |
| 4 | 12.11.2009              | - do -  |
| 5 | 29.12.2009              | - do -  |
| 6 | 25.03.2010 / 05.04.2010 | - do -  |

All the three decisions of this honourable tribunal dated 19.01.2012 dated 19.10.2016 dated 17.01.2020 have been decided in favour of the appellant after discussing all the relevant facts in detail including the above mentioned point of PSB meetings in which unjustified decisions by PSB in respect of the appellant have been made.

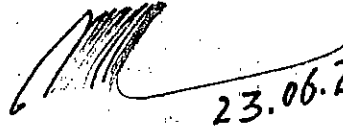
6. That though the 3<sup>rd</sup> decision of this tribunal dated 17.01.2020 has been accepted in partial (as raised by the respondents) but this 3<sup>rd</sup> decision contains the direction that the 1<sup>st</sup> decision of this tribunal dated 19.01.2012 and the 2<sup>nd</sup> decision of this tribunal dated 19.10.2016 are to be considered, both these decisions contain acceptance of appeal in full. In the foregoing paras of this rejoinder, the partial acceptance point in 3<sup>rd</sup> decision has been discussed in detail as para No. (1), many graciously again be perused to finalize any conclusion.

Therefore, it is humbly prayed that this honourable Tribunal besides its 3<sup>rd</sup> decision dated 17.01.2020 (which says the previous decisions should also be considered) graciously should also consider its 1<sup>st</sup> decision dated 19.01.2012 & the 2<sup>nd</sup> decision dated 19.10.2016 in which appeal of the appellant has been accepted in full, while the respondents are considering the said 3<sup>rd</sup> decision

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only as clear from their replication submitted in the Tribunal on 18.05.2022.

Therefore according to all the facts explained above in detail as Paras (1) to (6), Order may graciously be passed to promote the appellant from BS 17 to BS 18 w.e.f 08.02.2003 and BS 18 to BS 19 w.e.f 31.12.2008 with all back benefits.

  
23.06.2022

**APPELLANT**

Through:

  
**NOOR MUHAMMAD KHAN**  
**ADVOCATE**  
03459383141

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**MINUTES OF SCRUTINY COMMITTEE MEETING  
HELD ON 09.12.2020 AT 14:00 HOURS REGARDING  
PROFORMA PROMOTION IN RESPECT OF ENGR. NAZIR AHMAD  
RETIRED ASSISTANT ENGINEER (BS-17) C&W DEPARTMENT  
IN LIGHT OF COURT ORDERS**

A meeting on the subject case was held on 09.12.2020 at 14:00 Hours under the Chairmanship of Additional Chief Secretary Khyber Pakhtunkhwa in the committee room of P&D Department. The following attended the meeting:

- |    |  |     |        |
|----|--|-----|--------|
| 1. | Mr. Mutahir Zeb<br>Secretary to Govt of Khyber Pakhtunkhwa<br>Establishment Department, Peshawar | --- | Member |
| 2. | Engr. Ejaz Hussain Ansari<br>Secretary to Govt of Khyber Pakhtunkhwa<br>C&W Department, Peshawar | --- | Member |
| 3. | Mr. Shahrukh Ali Khan<br>Additional Secretary<br>Finance Department, Peshawar                    | --- | Member |
| 4. | Mr. Shakeel Asghar<br>Additional Secretary (Opinion)<br>Law Department, Peshawar                 | --- | Member |

2. The chair welcomed all the participants and asked the Secretary Establishment Department to apprise the forum about the case. The Secretary Establishment informed the forum that Engr. Nazir Ahmad Assistant Engineer BS-17 C&W Department (now retired), filed service appeal before Khyber Pakhtunkhwa Service Tribunal for proforma promotion to the next higher grade of BS-18 and BS-19 with all back benefits. The Tribunal partially accepted the instant service appeal on 17.01.2020 and directed to appoint a scrutiny committee at the level of respondent No.2 (Additional Chief Secretary) comprising of Secretary Law, Secretary Finance and Secretary Establishment as (respondent No.4) to consider the case of appellant for the purpose of proforma promotion in light of the judgment of various judicial directions and in humanitarian grounds for making the recommendation to the PSB. As per practice, the C&W Department referred the case to Law Department for examination/advice regarding filing of appeal/CPLA against the Tribunal judgment i.e. 17.01.2020. Scrutiny Committee of Law Department decided the case that the subject case may be returned to Administrative Tribunal with the advice to implement the judgment of Khyber Pakhtunkhwa Service Tribunal. In this regard a scrutiny committee was constituted to consider the case of Engr. Nazir Ahmad Assistant Engineer (BS-17) C&W Department (now retired) to the post of Executive Engineer (BS-18) and Superintending Engineer (BS-19) with all back benefits for the purpose of proforma promotion.

3. After examining all relevant record of the officer and thread bare discussion, the Committee recommended the Proforma Promotion of Engr. Nazir Ahmad Assistant Engineer BS-17 (retired) to the post of Executive Engineer (BS-18) w.e.f. 10.06.2010 (one day before of his retirement) for further consideration of Provincial Selection Board (PSB). However, the scrutiny committee did not recommend the officer for proforma promotion to the post of Superintending Engineer (BS-19) observing that performance is required to be evaluated for promotion to next grade, while the officer has already retired from service in BPS-17.

4. The meeting ended with mutual vote of thanks.

(MR. MUTAHIR ZEB)  
Secretary to Government of  
Khyber Pakhtunkhwa  
Establishment Department  
(Member)

(MR. SHAHRUKH ALI KHAN)  
Additional Secretary  
Finance Department  
(Member)

(MR. SHAKEEL QADIR)  
Additional Chief Secretary  
Government of Khyber Pakhtunkhwa  
P&D Department  
(Chairman)

(ENGR. EJAZ HUSSAIN ANSARI)  
Secretary to Government of  
Khyber Pakhtunkhwa  
C&W Department  
(Member)

(MR. SHAKEEL ASGHAR)  
Additional Secretary (Opinion)  
Law Department  
(Member)

ITEM NO. (19)

**COMMUNICATION & WORKS DEPARTMENT**

(Meeting of PSB held on 31.07.2021)

SUBJECT:- PROFORMA PROMOTION IN RESPECT OF ENGR. NAZIR AHMAD, ASSISTANT ENGINEER BS-17 (RETIRED) TO THE POST OF EXECUTIVE ENGINEER BS-18 AND SUPERINTENDING ENGINEER BS-19 WITH ALL BACK BENEFITS IN LIGHT OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL JUDGMENT.

Meeting of the PSB was held on 31.07.2021 under the Chairmanship of Chief Secretary, Khyber Pakhtunkhwa. Apart from the regular members of the PSB, Advocate General Khyber Pakhtunkhwa attended the meeting on special invitation. The Board considered the proforma promotion case of Engr. Nazir Ahmad, Assistant Engineer BS-17 (retired in June 2010).

2. Secretary, Communication & Works apprised the Board that the proforma promotion case of Engr. Nazir Ahmad to the post of Executive Engineer BS-18 was considered in PSB meeting held on 07.08.2013 and 25.09.2019 in pursuance of honourable Service Tribunal judgments dated 19.01.2012, 19.10.2016 and Supreme Court of Pakistan judgment dated 17.01.2013 but the Board did not recommend him for proforma promotion. The Board while considering his proforma promotion had observed that an enquiry proceeding against him was not finalized and decided on merit but the enquiry was abated due to his retirement on attaining the age of superannuation, therefore, he was not eligible for proforma promotion.

3. He filed an appeal in Khyber Pakhtunkhwa Service Tribunal for consideration of his proforma promotion once again to the post of Executive Engineer BS-18 and Superintending Engineer BS-19. The Tribunal in its judgment dated 17.01.2020 directed for appointment of a Scrutiny Committee at the level of Additional Chief Secretary comprising of Secretary Law, Secretary Finance and Secretary Establishment to consider the case of appellant for the purpose of proforma promotion in the light of the judgment of various Judicial directions and in humanitarian grounds for making the recommendations to the PSB. The case was referred to Law department for re-examination / advice regarding filing of CPLA against the Service Tribunal judgment dated 17.01.2020.

4. The Scrutiny Committee of Law department considered the case in its meeting held on 01.07.2020 and advised to implement the judgment of the Service Tribunal. Consequently, and in pursuance of Service Tribunal judgment dated 17.01.2020, a Committee was constituted on 27.10.2020 under the Chairmanship of Additional Chief Secretary, P&D Department.



5. Accordingly, the Scrutiny Committee held its meeting on 09.12.2020 and the Committee recommended the proforma promotion case of the appellant to the post of Executive Engineer BS-18 w.e.f 10.06.2010, one day before his retirement for the consideration of the PSB. However, the Committee did not recommend the proforma promotion of the appellant to the post of Superintending Engineer BS-19 observing that performance is required to be evaluated for promotion to next grade while the appellant has already retired from service in BS-17 on 10.06.2010 on attaining the age of superannuation.

6. Secretary C&W further informed the Forum that CEI of the officer at the time of his retirement was 69 out of 100. Similarly, a post of Executive Engineer BS-18 was also available for actualization of his proforma promotion. The record of the appellant was checked and there are seven (07) average PER reports in his service record while rest of his service record is either good or very good. An enquiry was pending against him at the time of his retirement. The pen picture recorded by various Reporting and Countersigning Officers during his service highlighted his qualities as hardworking Engineer, technically sound, intelligent, laborious and a honest person. Moreover, the Reporting and Countersigning Officers also marked him as fit for promotion.

7. Keeping in view the directions of Honourable Supreme Court and Service Tribunal, recommendations of the Scrutiny Committee and availability of vacancy at the time of retirement of Engr. Nazir Ahmad, the Board decided to recommend the officer for granting proforma promotion w.e.f 09.06.2010, one day before his retirement, to the post of Executive Engineer BS-18. The Board, however, did not recommend the proforma promotion of the officer to the post of Superintending Engineer BS-19 observing that performance is required to be evaluated for promotion to next grade while the officer has already retired from service in BS-17 on 10.06.2010 on attaining the age of superannuation.



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GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

No. SO (PSB) ED/1-3/2023/P-1324  
Dated Peshawar, the September 22, 2023

To

The Secretary to Government of Khyber Pakhtunkhwa,  
Communication & Works Department.

Subject: -

**PROFORMA PROMOTION IN RESPECT OF ENGR. NAZIR AHMAD  
EXECUTIVE ENGINEER BS-18 RETIRED TO THE POST OF  
SUPERINTENDING ENGINEER BS-19 C&W DEPARTMENT WITH  
ALL BACK BENEFITS IN LIGHT OF KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL DIRECTIONS.**

Dear Sir,

I am directed to refer to C&W Department letter No. SOE/C&WD/13-18/2014, dated 24.08.2023 on the subject and to say that Khyber Pakhtunkhwa Service Tribunal vide its judgement dated 17.01.2020 directed constitution of a Scrutiny Committee to consider proforma promotion case of Engr. Nazir Ahmad in light of the judgment of various judicial directions and in humanitarian grounds for making the recommendations to the PSB. In compliance, the said Scrutiny Committee was notified which recommended the proforma promotion of the petitioner to BS-18, however, the Committee did not recommend the second step proforma promotion i.e. BS-19 observing that performance is required to be evaluated for promotion to next grade. Recommendations of Scrutiny Committee were placed before the PSB and the PSB in its meeting held on 31.07.2021 also recommended the same.

2. The position explained above in detail clearly indicated that judgment of Hon'ble Service Tribunal has already been implemented, the C&W department may therefore, submit implementation report to the Service Tribunal in light of above.

3. The working paper and other documents received with the letter quoted above are returned herewith in original with the request to submit implementation report in the Service Tribunal highlighting complete facts of the case.

Yours faithfully,

SECTION OFFICER (PSB) 22/9/23

**Encl: As above.**

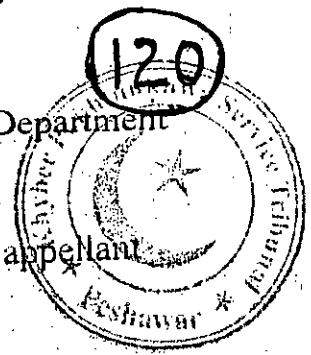
**ENDST. EVEN NO. & DATE.**

A copy is forwarded to Section Officer (R-V), Establishment Department.

SECTION OFFICER (PSB)

# Annexure..... R

Execution Petition No.151/2021 titled "Nazir Ahmad Vs. C&W Department"



ORDER

1<sup>st</sup> Nov. 2023

**Kalim Arshad Khan, Chairman:** Learned counsel for the appellant

present and heard.

2. This matter has a chequered history. Case of the appellant for promotion from BPS-17 to BPS-18 (Executive Engineer) was considered in the PSB held on 28.11.2002 but he was superseded. The supersession was challenged in appeal No.598/2003 and vide judgment of the Tribunal, case of the appellant remitted, which was again considered by the PSB held on 08.11.2004 but he was again superseded and then on 12.07.2005, he was again considered and deferred. Then he filed appeal No.1758/2009 and vide judgment dated 17.01.2020, which was decided in the following manner:

*"This Tribunal partially accept the instant service appeal with direction to respondent No.6 to take up the case with respondent No.1 for appointment of a scrutiny committee at the level of respondent No.2 with comprising of Secretary Law, Secretary Finance and Secretary Establishment as respondent No.4 to consider the case of appellant for the purpose of pro-forma promotion in the light of the judgment of various judicial directions and in humanitarian grounds for making the recommendation to the PSB. Parties are left to bear their own costs. File be consigned to the record room."*

3. The judgment dated 07.01.2020, required the respondents to constitute a scrutiny committee at the level of respondent NO.2 also comprising Secretary Law, Secretary Finance and Secretary

ATTESTED

ATTESTED  
Kashawan  
Service Tribunal  
Islamabad

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Establishment and to consider the case of the appellant for the purpose of pro-forma promotion in the light of judgment and on humanitarian grounds for making recommendation to the PSB. In compliance with judgment, scrutiny committee was constituted and on recommendation, the PSB considered the case of the petitioner and in further compliance of the judgment, the PSB also recommended promotion of the petitioner from the post of Assistant Engineer/SDO (BPS017) to the post of Executive Engineer (BPS-1) of C&W Department w.e.f 09.06.2010, one day before his retirement. The petitioner claims that he ought to have been promoted from the date he was first superseded but this claim was not granted in the judgment, sought to be implemented, rather the operative part of the judgment reproduced, hereinbefore, required constitution of the scrutiny committee and then consideration of promotion of the appellant by PSB, which has been done.

4. The above proceedings conducted by the respondents are in line with the terms of the judgment of the Tribunal. As a resultant consequence, this petition is filed. Consign.

5. *Pronounced in open Court at Peshawar and given under my hand and seal of the Tribunal on this 1<sup>st</sup> day of November, 2023.*

Certified to be true copy

RECEIVED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

  
(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

Date of Presentation of Application 07-11-23  
Number of Words 279  
Copying Fee 90/-  
Urgent \_\_\_\_\_  
Total 10/-  
Name of Copies \_\_\_\_\_  
Date of Completion of Copy 07-11-23  
Date of Delivery of Copy 07-11-23

Annexure ..... S

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BEFORE THE PRESHAWAR HIGH COURT PESHAWAR

WRIT PETITION NO. S332-P -P/2023

Mr. Nazir Ahmad Khan, Deputy Director (Retired)

C&W Department, District Chitral

PETITIONER



VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Additional Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Government of Khyber Pakhtunkhwa through Secretary S&GAD, Peshawar.
4. The Secretary Establishment, Govt: of Khyber Pakhtunkhwa, Peshawar.
5. Senior Member Board of Revenue, Govt: of Khyber Pakhtunkhwa, Peshawar
6. Secretary C&W Department, Govt: of Khyber Pakhtunkhwa, Peshawar

RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 AS AMENDED UPTO DATE.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present writ petition are as under:

1. That the Petitioner was the employee of the respondent Department and had served the respondent Department till his superannuation. Copy of the retirement order/notification is attached as annexure ..... A (Page... II.....)

FILED TODAY

Deputy Registrar

18 NOV 2023

WP5332-2023 NAZIR AHMAD KHAN VS GOVT. OF PGS154 USB.pdf

ATTESTED

EXAMINER

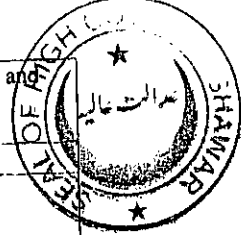
Peshawar High Court

Peshawar

PESHAWAR HIGH COURT, PESHAWAR.  
FORM "A"  
FORM OF ORDER SHEET.

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| Serial No of order or proceeding | Date of Order or Proceeding | Order or other proceedings with Signature of judge or Magistrate and that of parties or counsel where necessary  |
|----------------------------------|-----------------------------|--|
| 1                                | 2                           | 3  |
|                                  | 16.01.2024.                 | <p><u>W.P. No.5332-P/2023.</u></p> <p><u>Present:-</u> Mr.Noor Muhammad Khattak,<br/>Advocate for the petitioner.</p> <p>Syed Shahid Mehboob, Advocate<br/>for the respondents.</p> <p>—</p> <p><b><u>SAHIBZADA ASADULLAH, J:-</u></b> The matter was heard at an extensive length and ultimately the learned counsel for the petitioner requested the indulgence of this court to the extent that the instant writ petition may be treated as departmental representation. We will not dilate upon the legal aspects of the case as to whether this court has jurisdiction in the matter or otherwise, however, as the petitioner spent a long time before this court with the hope attached with this writ petition, so we treat the instant writ petition as departmental representation and office is directed to transmit the same before respondent No.1, who in turn place the same before the competent authority for its onward decision. If in case the petitioner could not receive a favourable decision then he</p> |



**ATTESTED**  
EXAMINER  
Peshawar High Court  
Peshawar

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is at liberty to agitate the matter before the competent forum. This writ petition stands disposed of accordingly.

*[Signature]*  
JUDGE

*[Signature]*  
JUDGE

CERTIFIED TO BE TRUE COPY  
EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 8, 7 of  
the Qanoon-e-Shahadat Act 1984  
05 FEB 2024

31812

No. \_\_\_\_\_  
Date of Presentation of Application 02-02-2024  
No of Pages 11  
Copying fee —  
Total —  
Date of Preparation 03-02-2024  
Date of Delivery of Copy 03-02-2024  
Received By جان فیل



*The*  
**PESHAWAR HIGH COURT**  
*Peshawar*

125

Ph: No. 091-9210149-58

No. 90291 (1)/999/2024/WP-MN

Dated. 24-January-2024

From

Deputy Registrar (J),  
Peshawar High Court,  
Peshawar.

To

The Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat,  
Peshawar.

Subject:

Writ Petitions W.P 5332/2023 Title: Nazir Ahmad VS Govt. of KPK etc.

Memo,

I am directed to send herewith the titled case in original alongwith all annexures and copy of order of this Honble Court dated 16.01.2024 for compliance.

*J* Deputy Registrar (J)  
24/1 25/1/24

Encl: As above.

ATTESTED



**COURT MATTER**  
**MOST IMMEDIATE**

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**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**ESTABLISHMENT DEPARTMENT**  
**(JUDICIAL WING)**

No. SO (Lit-I) E&AD/2-5911/2024  
Dated: Peshawar, the 01.02.2024

To

The Sectary to Govt. of Khyber Pakhtunkhwa,  
C&W Department

Subject:

**WRIT PETITION NO. 5332/2023 – NAZIR AHMAD VS GOVERNMENT**  
**OF KHYBER PAKHTUNKHWA & OTHERS.**

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of letter No. 90291(1)/999/2024/WP-MN dated 24.01.2024 alongwith Order Sheet dated 16.01.2024 (passed by the Hon'ble Peshawar High Court, Peshawar) and *Original File of Peshawar High Court, Peshawar* for further immediate necessary action/ compliance at the earliest, please.

Yours faithfully,

Encl: As above.

Section Officer (Litigation-I)

Endst: of even No. & Date.

**Copy forwarded for information to the:-**

1. Deputy Registrar (J), Peshawar High Court, Peshawar with reference to their letter referred to above.
2. PS to Secretary Establishment Department, Khyber Pakhtunkhwa.
3. PA to Special Secretary (Establishment), Establishment Department.
4. PS to Additional Secretary (Judicial), Establishment Department.
5. PS to Deputy Secretary (Judicial), Establishment Department.
6. Master File.

Section Officer (Litigation-I)

ATTESTED

2/12

Incharge  
of Branch  
2/2/24

# Annexure ..... T

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645

2000]

Ziaul Hassan v. Naseem Chaudhry  
(Irshad Hasan Khan, J)

without pay. Since no question of public importance has been raised in these petitions, therefore, we do not find any merit and dismiss the same. Leave to appeal is refused in both the petitions. A

H.B.T./D-23/S

Leave refused.

✓ 2000 S C M R 645 ✓

[Supreme Court of Pakistan]

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

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

versus

Mrs. NASEEM CHAUDHRY---Respondent

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

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

Civil service---

---Promotion---Supreme Court had found that civil servant had not been promoted by superseding any officer senior to her; she was entitled to be promoted from the date her juniors were promoted and there was no valid reason not to consider her for the promotion---Mere fact that some disciplinary proceedings were pending against the civil servant was not a sufficient ground to disregard the order passed by the Supreme Court---Promotion of civil servant, however, would not debar the Authorities to continue with the disciplinary proceedings against the civil servant, if any, justly, fairly and in accordance with law. [pp. 646, 647] A & B

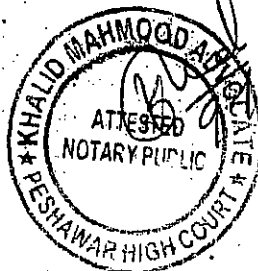
Inspector-General of Police, Punjab, Lahore and others v. Mrs. Naseem Chaudhry and others C.P.L.A. No.1617-L of 1997 ref.

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

Respondent in person.

Date of hearing: 20th October, 1999.

SCMR



## JUDGMENT

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

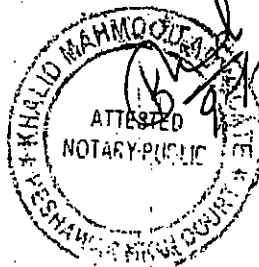
2. The dispute herein relates to the promotion of the respondent as Deputy Superintendent of Police:-

3. This Court through judgment, dated 15-4-1999 passed in C.P.L.A. No.1617-L of 1997 entitled The Inspector General of Police, Punjab, Lahore etc. v. Mrs. Naseem Chaudhry, etc., while dismissing the appeal of the Inspector-General of Police against the order of the Punjab Service Tribunal, Lahore in Appeal No.3097 of 1997, made the following observation:-

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

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

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



2000]

Ahmed Din v. Ghulam Muhammad  
(Irshad Hasan Khan, Actg. CJ).

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

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

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

Petition dismissed.

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

2000 S C M R 647

[Supreme Court of Pakistan]

Present: Irshad Hasan Khan, Actg. C.J. and Sh. Ijaz Nisar, J.

AHMED DIN---Petitioner

versus

GHULAM MUHAMMAD through Legal Heirs  
and others---Respondents

Civil Petition for Leave to Appeal No. 675-L of 1999, decided on 10th September, 1999.

(On appeal from the judgment/order dated 17-11-1998 passed by the Lahore High Court, Lahore in R.S.A. No. 170/88).

Supreme Court Rules, 1980—

---O. XIII, R. 1---Constitution of Pakistan (1973), Art. 185(3)---Petition for leave to appeal---Delay in filing such petition---Condonation---Delay of one hundred and twenty-three days in filing petition for leave to appeal was sought to be condoned by petitioner on ground that petitioner who was living in far off village could not receive letter from his counsel regarding dismissal of his appeal by High Court---Matter purely being between client and his counsel, opposite-party could not be penalized for alleged negligence of the counsel who allegedly could not inform petitioner in time---In absence of

10/11

convenience of the candidates. The petitioner cannot be said to have been deprived of from any vested right. As observed above, neither there is any recommendation of the Selection Board nor the policy-maker could be directed to change the policies. The enhanced criteria was within the jurisdiction of the competent authority prescribed. The other points raised by learned counsel for the respondents need not to discuss. The result of this discussion and order may not affect on the revision filed to the Chancellor. This petition has no legal force. Therefore, the same is dismissed.

M.H./O-2/L

Petition dismissed.

2008 P L C (C.S.) 1019

[Lahore High Court]

*Before Hafiz Tariq Nasim, J*

Mrs. SANJIDA IRSHAD, ASSISTANT DIRECTOR,  
NURSING, BAHAWALPUR

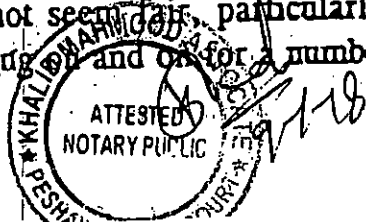
versus

SECRETARY TO GOVERNMENT OF THE PUNJAB  
HEALTH DEPARTMENT, LAHORE and others

Writ Petition No.2573 of 2008, decided on 24th April, 2008.

Punjab Civil Servants Act (VIII of 1974)---

—S. 8—Constitution of Pakistan (1973), Art.199—Constitutional petition—Promotion---Entitlement---Petitioner while serving in BS-17 became eligible for promotion to BS-18 in the year 1997, but she was promoted on officiating basis in BS-18 in 1998 instead of regular promotion, whereas one of her juniors was promoted in BS-18 on regular basis in 1997—Reasons for non-promotion of petitioner, firstly was pendency of enquiry against her and secondly minor penalty of censure imposed on her---Petitioner, who had become eligible for regular promotion in the year 1997 when her junior was promoted, was made a subject of repeated enquiries---One minor penalty of censure as well as the pendency of enquiry, could not be treated a hurdle for regular promotion of the petitioner as on the minor penalty civil servant could not be ignored and could not be refused a regular promotion---So far as the pendency of enquiry against the petitioner was concerned; record had revealed that petitioner was being made subject of repeated enquiry proceedings, which otherwise did not seem fair, particularly, when the proceedings of the enquiry were going on for a number of years---



-During the pendency of enquiry against the petitioner she could not be deprived of her lawful right for her consideration for promotion--- Withholding of petitioner's promotion on regular basis from the date when she became eligible, was practically an outcome of colourable exercise of power and that action of Departmental Authorities could not sustain in the eye of law--- Authorities were directed to place petitioner's case for promotion before Departmental Promotion Committee within specified period. [pp. 1020, 1021, 1022] A, B, C, D, E, F, G & H

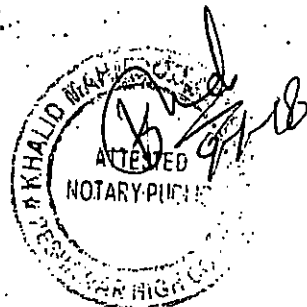
Captain Sarfaraz Ahmad Mufti v. Government of the Punjab and others 1991 SCMR 1637; Mian Ali Muhammad v. Secretary, Establishment Division, Government of Pakistan and 3 others 2003 PLC (C.S.) 1425; Deputy Inspector-General of Police, Gujranwala and others v. Anwar Saeed, Inspector Police and others 1998 SCMR 552 and Maj. Ziaul Hassan, Home Secretary and others v. Mrs. Naseem Chaudhry 2000 SCMR 645 ref.

Asif Nazir Awan for Petitioner.

Naeem Masood, Asstt. A.-G., Punjab with Hamid Yaquub Sheikh, Additional Secretary for Respondents.

### ORDER

HAFIZ TARIQ NASIM, J.--- Facts relating to this writ petition are that the petitioner while serving in the Health Department in BS-17 became eligible for promotion to BS-18 in the year 1997 but she was promoted on officiating basis in BS-18 on 22-6-1998 instead of regular promotion, whereas one of the juniors namely Mst. Malika Shaheen was promoted in BS-18 on regular basis vide order dated 18-2-1997. Petitioner filed Service Appeal No.2592 of 1997 before the Punjab Service Tribunal against the order dated 18-2-1997, whereby the junior was promoted and she was ignored, the said appeal was accepted through judgment dated 30-9-1998 directing the Departmental Authorities to re-consider the matter and re-decide the question of promotion afresh keeping in view the seniority of the petitioner. This judgment was even confirmed by the Honourable Supreme Court of Pakistan. According to the learned counsel for the petitioner that despite clear finding and direction of the learned Punjab Service Tribunal, the petitioner is being victimized since 1998 by way of non-promotion and that too on extraneous consideration, whereas the petitioner is still working against BS-18 without any break. Further submits that the case of the petitioner was placed before the D.P.C. but it was deferred on the ground of pendency of certain enquiries. The learned counsel submits that the pendency of enquiry and even the minor penalty cannot come in the way of promotion, whereas the respondent was adamant not to promote the petitioner at any costs due to ulterior motive.



2. Learned A.A.-G. submits that the promotion cannot be asked as a matter of right and even the petitioner is not superseded so there is no question of any grievance, which could entitle her for invocation the jurisdiction of this Court.

3. The Additional Secretary Health, who is present in court along with the record submits that the reasons of non-promotion of the petitioner is pendency of enquiry against the petitioner as well as the minor penalty of censure, however, after the finding of the enquiry her case shall be submitted before the D.P.C. for reconsideration. B

4. Argument heard. Record perused.

5. The record reflects that the petitioner is made a subject of repeated enquiries, became eligible for regular promotion in the year 1997 but instead of promoting her on regular basis, she was promoted on officiating basis, whereas her junior was promoted on regular basis, which matter was also adjudicated upon by the learned Punjab Service Tribunal long long ago. C

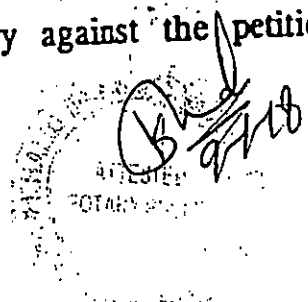
6. It is also confirmed from the record that one minor penalty of censure is available in her record but the minor penalty as well as the pendency of enquiry cannot be treated a hurdle for the regular promotion of the petitioner as the Honourable Supreme Court of Pakistan once for all resolved the matter in a case reported as Captain Sarfaraz Ahmad Mufti v. Government of the Punjab and others 1991 SCMR 1637, wherein it is held that on all the minor penalties civil servant cannot be ignored and cannot be refused to grant promotion. D

7. It is to be noted that the words used by the Honourable Supreme Court of Pakistan in respect of minor penalty is plural i.e. minor penalties. In the present case only one minor penalty of censure is available in the record. In another judgment reported as Mina Ali Muhammad vs. Secretary. Establishment Divisions, Government of Pakistan and 3 others 2003 PLC (C.S.) 1425, this court followed the law laid down by the Honourable Supreme Court of Pakistan referred above holding:-- E

"Promotion could not have been withheld on the ground that minor penalty was imposed upon him".

8. So far the pendency of enquiry against the petitioner is concerned, record reveals that the petitioner is being made a subject of repeated enquiry, which otherwise does not seem fair, particularly, when the proceedings of the enquiry are going on and on for a number of years. F

9. During the pendency of enquiry against the petitioner, she


  
 PUNJAB SERVICE TRIBUNAL  
 CHAIRMAN  
 LAHORE

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cannot be deprived of her lawful right for his consideration for promotion as held by the Honourable Supreme Court of Pakistan in cases reported as Deputy Inspector-General of Police, Gujranwala and others v. Anwar Saeed, Inspector Police and others 1998 SCMR 552 and Maj. Ziaul Hassan, Home Secretary and others v. Mrs. Naseem Chaudhry 2000 SCMR 645.

10. After going through all aspects of the case, it is held that withholding of the petitioner's promotion on regular basis from the date when she became eligible is practically an outcome of colorable exercise of power and that action of the Departmental Authorities cannot sustain in the eye of law on two grounds:--

- (i) "Pendency of enquiry against a civil servant cannot be treated a bar for further promotion.
- (ii) Minor penalty of censure and even the minor penalties cannot become a hurdle in the promotion of any civil servant."

Accordingly the writ petition is allowed and respondent is directed to place the petitioner's promotion case for her regular promotion before the Departmental Promotion Committee within one month positively and the said Committee is directed to consider the petitioner for promotion fairly, justly and without being influenced of the pendency of any enquiry and the minor penalty.

The promotion case be considered from the date of petitioner's eligibility. The Additional Secretary, who is present in Court, shall ensure the compliance of the court's order and complete the process within one month under intimation to the Deputy Registrar (J.) of this Court.

H.B.T./S-16/L

Petition allowed.

2008 P L C (C.S.) 1022

[Lahore High Court]

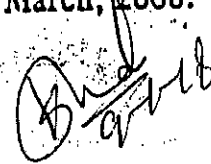
Before Saif-ur-Rehman, J

Ms. SHAZIA BASHIR and 2 others

versus

BAHAUDDIN ZAKARIYA UNIVERSITY, MULTAN  
through Vice-Chancellor and 4 others

Writ Petition No.5467 of 2007, decided on 12th March, 2008.





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

Appeal NO: \_\_\_\_\_ OF 2024

Nazir Ahmael

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Govt of KPIC

(RESPONDENT)  
(DEFENDANT)


I/We Nazir Ahmael

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 104 /2024

  
**CLIENT**

**ACCEPTED**

  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE SUPREME COURT**  
(BC-10-0853)  
(15401-0705985-5)

  
**UMAR FAROOQ MOHMAND**

  
**WALEED ADNAN**

&

  
**MEHMOOD JAN**  
**ADVOCATES**

**OFFICE:**

Flat No. (TF) 291-292 3<sup>rd</sup> Floor,  
Deans Trade Centre, Peshawar Cantt.  
(0311-9314232)