

12.	<i>Copies of Promotion Letters</i>		31-32
13.	<i>Copies of Notifications dated: 07/09/2021 & 16/07/2021</i>		33-34
14.	<i>Copy of Order Sheet dated; 12/12/2022</i>		35-36
15.	<i>Copies of letters and minutes of meeting</i>		37-42
16.	<i>Copy of judgment WP No. 2707/2021 alongwith FIR and Order dated: 17/02/2023</i>		43-59
17.	<i>Copies of letters and minutes of meeting</i>		60-72
18.	<i>Copy of Notification dated: 19/08/2022 alongwith letter dated: 12/08/2022</i>		73-75
19.	<i>Copies of Notifications dated: 02/04/2024, 03/04/2024 & 05/04/2024</i>		76-81
20.	<i>Copy of Service Appeal No. 7917/2021 alongwith judgment dated: 13/07/2023</i>		82-101
21.	<i>Copy of Service Appeal No. 813/2023 alongwith judgment dated: 15/09/2023</i>		102-116

Dated:- 17/05/2024

Through:-

Appellant

Abdul Rauf Rohaila

Senior Advocate Supreme Court

BEFORE THE SERVICES TRIBUNAL, PEHSAWAR

(Original jurisdiction)

Service Appeal No. 2325-P/2023

Shaukatullah Shah

Versus

Secretary, Communication and Works Department and others

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 12871

Dated 17-05-2024

**REJOINDER ON BEHALF OF APPELLANT TO THE
PARAWISE COMMENTS FILED BY RESPONDENTS**

Respectfully Sheweth,

The appellant humbly submits rejoinder to the parawise comments filed by respondents as under:-

RESPONSE TO THE PRELIMINARY OBJECTIONS

- I. Objection No. (i) is misconceived in that Government of Khyber Pakhtunkhwa has been arrayed in the calendar of respondents' viz respondent No. 6 in term of Article 174 of the constitution whereas word "may" has been used in Article 174. The appellant has created vested right to be promoted in BS-18 having held XEN post from 27-4-2017 to 11-9-2019.
- II. Objection No. (ii) and (iii) are void ab-initio in that the appellant is seeking indulgence of this honourable Tribunal relating to the fixation of quota for B-Tech diploma holders engineers whereas the appellant has already retired from service on 27-8-2022. Since there is no quota in the rules but in other departments specific quota has been fixed, therefore, the present case evolves on discrimination, which aspect has not been commented upon by respondents.
Interestingly by virtue of impugned Notification dated 25-11-2022 the degree holder Engineers and B. Tech (Honors) Degree holders and Diploma Holders have been placed at par whereas both categories cannot be equated in term of judgment of Supreme Court of Pakistan in Moula Bakhsh.
- III. In reply to Objection No (iv), (v) and (vi), it is explained that the appellant has been voicing for grant of quota to the B-Tech Engineer even such quota has been assigned by (i) Irrigation, (ii) Energy and power and (iii) Public Health Engineering of this province. The appellant has been discriminated by the respondents which is forbidden in term of Chapter I Part II of the Constitution relating to Fundamental rights. The superior courts in number of cases including "Moula Buakhsh" case (2018 SCMR 2098) have approved grant of quota to B, Tech.(Honor) Degree holder for promotion to BPS-18.

- IV. Relating to Objection No. (vii) and (viii), it is submitted that respondents are violating Article 4, 8, 18, 25 and 27 of the Constitution who have legal obligation to deal with every citizen fairly. The respondents are legally bound to implement the mandate of Article 27. Appellant previously filed Writ Petition No. 2707-P/2021 in the honourable Peshawar High Court relating to similar prayer which was disposed of through order dated 24-3-2022. Ironically respondents did not adhere to the directions of the honourable Peshawar High Court dated 24-3-2022 inspite of rigorous application and personal persuasion, therefore, the appellant was constrained to file COC No. 350-P/2022 in Peshawar High court. During the pendency of COC, respondents produced notification dated 25-11-2022 on 12-12-2022 in the honourable High Court. In view of such development the appellant filed present Writ Petition on 4-3-2023 which has been remitted to this honourable Tribunal, therefore the objection relating to *laches* is misconceived. Due to flagrant violation of constitution provisions, the present legal proceedings have correctly been initiated previously in Peshawar High Court transmitted to this honourable tribunal to seek proforma grant of BPS 18 to get pensioner benefits.
- V. Objection (ix) is evasive and repetitious. The appellant has honestly, faithfully and with due diligence has approached this honourable Tribunal who is not being dealt in accordance with law and rules applicable to other identical Government departments. The appellant seeks equal treatment by respondent in that quota has been granted and fixed to B. Tech (Hon) Degree Holders in other departments of this province, therefore, refusal of respondents thereof to the appellant has constrained the appellant to approach this honourable Tribunal.

ON MERITS OF FACTS

1. Paras No. 1 to 3 of the appeal/writ Petition are true and correct whereas reply thereof is evasive inasmuch as Bachelor of technology (B. Tech) is the study of technology which is more practical based on creative designing whereas in BSc. it is about knowing and learning science theoretically more. B. Tech is a professional degree in engineering which is a graduate course for 7 (seven) years on the other hand BSc is a six year course both after passing matriculation examination. The mission

of Pakistan Engineering Commission (PEC) is to set and maintain realistic and internationally relevant standards of professional competence and ethics for engineers and engineering institutions. PEC licenses a number of professional engineering institutions to carry out the process of accreditation or approval. This assesses whether qualifications and programmers fully or partially meet the education requirements for professional registration. It is not denied that the appellant holds B. Tech (Honors) Degrees and was serving in Communication and Works Department, as Sub-Divisional Officers, promoted time and again and was lastly posted as Executive Engineer in Communication and Works Department. The working paper of the petitioner was forwarded for promotion on through letter No. SOE/C&WD/4-5/72 dated 21-6-2021 but was withdrawn/cancelled on 9-7-2021. It is conceded by respondents that 3.5% quota reserved for Sub-Engineers having Degree of B. Tech (Honor) to be promoted to BS-17 has been enhanced to 10% through notification dated 26-3-2018 but similar treatment for grant of specific quota for such engineers/ appellant for promotion to BS-18 has been denied while issuing notification dated 25-11-2022. Such treatment is even in violation of dictum of the apex Tribunal rendered in "Moula Bakhsh" supra case. The stance of respondent is self-contradictory in that if a post of Executive Engineer, BS-18 is to be filled among the incumbents and as per criteria contain in notification dated 25-11-2022 including qualification and seniority cum fitness, B. Tech Honor) Degree holder is at top serial No. 1, such B. Tech (honor) SDO/Assistant Engineer has to be promoted irrespective of fact that he does nor possess accredited engineering qualification from the accredited engineering institution. Such exercise will be contemptuous to the directions issued by august Supreme Tribunal of Pakistan. Unfortunately, this important aspect of the case has been ignored by respondents while issuing notification dated 25-11-2022. The respondents in reply to para 3 of appeal/ writ petition have conceded that B. Tech (Honor) have been granted 3.5% quota for promotion as BS-17. The record testify the fact that appellant held the post of Executive Engineer from 27-4-2017 to 11-9-2019 and has maliciously been involved in FIR No. 1/2022 PS Anti-Corruption, PS Hango due to the litigation specially COC against official respondents. It is to be noted through Notification dated 25-11-2022 B. Tech. Diploma Holders have been allowed to be promoted at BS-18 posts but specific quota has been refused illegally and unlawfully.

- 4
2. That the reply to paras No. 4, 5 and 6 of the reply/parawise comments are misleading and contemptuous. The authority of Pakistan Engineering Council is never in dispute. Nevertheless, respondents have deliberately with malafide have deliberately not mentioned the highlighted contents of UGC letter dated 23-1-2002 reproduced below:-

"The degree of B. Tech(Hons) is not similar to B.E/B.Sc Engineering degree. Both the degrees of B.E/B.Sc Engineering and B. Tech (Hons) be considered as two distinct disciplines of knowledge in the field of Engineering and Technology and should be run parallel to each other. However, B. Tech (Hons) may be treated at par and compatible with B.E/B.Sc. Engineering degree holders as for as grade pay and promotion and other benefits are concerned!" The Committee further noted that it was up to the employer to determine the type of qualification required for a particular post."

3. That paras No. 7, 8, 9, 10 and 11 of the appeal/writ petition are true and correct whereas reply thereof is hollow and shallow. The appellant and others approached the respondents through representation dated 15-8-2017 for reservation of 20% quota for promotion of B. Tech (Honors) degree holders to the post of BS-18 and in consequence thereof Standing Service Rules Committee (SSRC) was constituted. However meeting of SSRC could not be held as mentioned in detail in para No. 9 of the appeal/Writ Petition. Due to negative attitude appellant was constrained to file W.P. No. 2707-P/2022 in Peshawar high Court for grant and fixation of 20% quota for B. Tech (Honors) to the post of BS-18. The present appeal has been transmitted by the honourable Peshawar High Court with the observation that such matters can be dealt by this honourable Tribunal. It is matter of record that quota for such like engineers has been granted by provincial government to B. Tech. Diploma Holders of (i) Irrigation, (ii) Energy and power and (iii) Public Health Engineering of this province in exercise of its powers. The perusal of order 3-10-218 of the apex Supreme Court in Moula Bukhsh will reveal that specific quota was fixed for B.Tech Diploma Holders by Government of Sindh for promotion which was approved by the learned Sindh High Court. However, such judgment was challenged but petition was dismissed and quota fixed for B. Tech. Diploma Holders was up held. This important aspect of the matter has deliberately been eclipse, over shadow and obscure by respondent Department. Even recently the Irrigation Department through Notification dated 2-4-2024, 3-4-2024 and 5-4-2024 has promoted B. Tech (Honours) Degree holders and Diploma holder to the post of BS-18.

5

4. The appellant in paras No. 11, 12 and 13 of the appeal/writ petition has disclosed the entire ground realities whereas reply thereof are amazing. The provincial government in the department of Irrigation Department, Energy and Power, Local Council Board and Public Health Engineering Department providing opportunity/chances of promotion to the B. Tech (Honors) Degree holders and Diploma Holders Assistant Engineers , to be promoted and appointed as BS-18. Furthermore the matter of fixation of quota for B. Tech (Honors) Engineers and Diploma Holders notified by Sind Government was challenged but Supreme Court through judgment reported as “Moula Bakhsh” (2018 SCMR 2098) has maintained the quota and dismissed the petition holding that the provincial government has correctly exercised and reserved quota for promotion to B. Tech (Hons) at BS-18 posts. The notification dated 25-11-2022 impugned in this appeal/writ petition is in defiance of such ruling of the august Supreme Tribunal. It is not denied that no quota for B. Tech (Honors) Degree holders and Diploma Holders has been fixed and they have otherwise been considered at par with degree holders engineers which otherwise is against the dictum and spirit of Moula Bakhsh judgment ibid. It is presumed that while hearing and rendering judgment dated 15-9-2023, proper assistance was not made to this honourable Tribunal. The Supreme Court of Pakistan while dealing with case of “Fida Hussain Versus The Secretary Kashmir Affairs and Northern Affairs Division” (PLD 1995 SC 701) has observed at page 713 that:-

“.....Pakistan Engineering Council is vested with the functions to regulate the person qualified to practice as professional engineers and consulting engineers and not persons who are employed in the Government or semi-Government organizations. If the Government employs a professional engineer as defined in the Act for performing professional engineering work as envisaged by the Act in above clause (k) of section 2, the provisions of the Act would be attracts and not otherwise.”

5. That the appellant in paras No. 14, 15 16 and 17 has incorporated all relevant facts including filing of WP No. 2707-P/2021 which will reveal that respondents were deliberately delayed the completion of amendment in the recruitment rules allocating 20% quota for the B. Tech (Hons) Degree Holders for promotion in BPS-18 posts. Writ Petition was finally allowed on 24-3-2022 directing respondents to finalize the outcome of SSRC within sixty (60) days. For noncompliance of honourable Peshawar High Court specific orders dated 24-3-2022, the respondents took almost eight (8) months, COC No. 350-P/2022 was filed, but still no final result could be achieved. The reply of respondents to the referred paras are evasive with no substance. The appellant has no cavil that fixation of quota falls within the domain of provincial government to frame rules but ironically such powers have not been exercised appropriately and appellant has been discriminated.

6. Para No. 18 and 19 with grounds are the essence of the agonies of the appellant. The respondents have played naked fraud with the appellant while issuing "Notification" dated 25-11-2022 denying 20% quota demanded making amendment stating that in pursuance of sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, C&W Department notified amendments in Notification No. SOE/C&WD/8-12/2009 dated 25-3-2010 as under:-

6

AMENDMENTS

In the APPENDIX, under the heading "Engineering Service", for serial No. 3, the following shall be substituted namely:

<i>S #</i>	<i>Nomenclature of the Post</i>	<i>Method of recruitment</i>
<i>1</i>	<i>2</i>	<i>5</i>
"3"	<i>Executive Engineer/Design Engineer/ Senior Engineer/ Research Officer/ Deputy Director Technical/ Senior Engineer (Survey/RMU) (BPS)</i>	<i>By promotion, on the basis of seniority-cum-fitness, from among the Sub-Divisional Officer, Assistant Engineer, Junior Engineer and Assistant Research officers with at least 05 (Five) years' service as such and have passed the Professional Examination as prescribed in West Pakistan Buildings and Roads Code"</i>

ON GROUNDS

(1) Ground (1), (2), (3) and (4) of the appeal/writ petition are based on law, facts, and ruling of the superior Tribunals. The appellant has been denied to grant 20% quota through "Notification" dated 25-11-2022 being B. Tech (Hons) Engineer illegally and unlawfully which cannot sustain and liable to be set aside. The malafide of the respondents is established from the record that the matter is being delayed on one pretext or other for many years. Even, after the judgment dated 24-3-2022 of honourable Peshawar High Court, the respondents took more than 8 months to notify disputed "Notification". The record will testify the fact that appellant was posted as Executive Engineer from 27-4-2017 to 11-9-2019 in C&W Department, thus vested rights have been created in his favour. The appellant being B. Tech (Honors) Degree holder has the right to be promoted and grant of 20% quota has illegally been refused. A bare perusal of "Notification" will reveal that no quota has been fixed for B. Tech (Hons) Engineers by respondents in negation of claim made by the appellant and other B. Tech (Hons) Engineers. The appellant has been dealt illegally and denied his right for promotion on 20% quota which he is agitating and demanding since 15-8-2017 for fixation of quota and to make amendments in "The Rules" for promotion of B. Tech (Honos) Degree holder SDOs of BPS-17 to the post of BPS-18. The stance of respondents that

“Notification” has been issued in the light of the recommendations of SSRC in the meeting dated 20-4-2022 does not get support from the minutes of the meeting in that as per working paper annexed with parawise comments (Page 29 to 31). Para 4 and 5 thereof are reproduced hereunder for ready reference.

7

4. In the concluding, the committee has mentioned that after thread bare discussion, in the light of Supreme Tribunal judgment, the Khyber Pakhtunkhwa Civil Servant Act, 1973, APT Rules, 1989 and Peshawar High Tribunal judgment dated 24-3-2022 regarding convening of SSRC meeting, it was unanimously recommended that C&W Department may review its existing service rules by providing opportunity / chances of promotion to the B. Tech (Hons) Degree holders and Diploma Holders Assistant Engineers on the analogy of other technical departments i.e. Irrigation, Energy and Power, and PHE Department.

5. In this connection, C&W Department is of view in light of operative part of Supreme Tribunal of Pakistan judgment dated 24-5-2018 that non-professional post not exist in C&W Department to consider the promotion of Assistant Engineers (BS I7) holding the B-Tech (Honos) and Diploma Holders, except two posts (02) Nos posts of Deputy Director Technical (BS-18) and one number post of Senior Engineer (Survey/RMU) (BS-18) are available against which the promotion of the referred cadres can be considered under the referred Supreme Tribunal Judgment . Moreover as 10% quota under the existing Service Rules of C&W Department, 23 Nos posts of Assistant Engineers/SDOs (BS-17) are filed by way of promotion from amongst B. Tech (Hons) Sub Engineers.

(2) The stance made by the appellant in grounds (5), (6), (7) and (8) are in line of ground realities, relevant law and rules applicable. The appellant is being purposely and knowingly discriminated due to the apparent personal malafide of C&W high officials inasmuch as they are B. Sc. Engineers and deliberately delaying 20% quota to B. Tech (Degree holders. There can be no cavil and denial that C&W department vide notification dated 14-10-2014 and 26-3-2018 fixed the quota for promotion which aspect testify the claim of the appellant that B. Sc. Engineers and B. Tech (Hons) Engineers have separate cadre. The discriminative attitude of the respondents is transparent from the fact that various departments in Khyber Pakhtunkhwa Province have granted and fixed separate quota for B. Tech (Hons) Engineers including, KP Energy and Power Department; Local Government, Election and Rural Development Department and PHE etc. It has been ruled by the apex Supreme Tribunal of Pakistan that the provincial Government is empowered and authorized to reserve quota for promotion. The respondent/government has the authority to appoint and promote incumbent on such terms and conditions as it may deem appropriate. The claim made in reply to ground (8) is amazing in that C&W Department in SSRC meeting held on 22-4-2022 has proposed for the grant of quota to B. Tech (Hons) reproduced in the preceding paras. The stance of respondents in reply to ground (5) and para 6 speaks high about the conduct, attitude and approach. UGC in 39th meeting held on 12-2-1998 observed that”

81

“The degree of B. Tech(Hons) is not similar to B.E/B.Sc Engineering degree. Both the degrees of B.E/B.Sc Engineering and B. Tech (Hons) be considered as two distinct disciplines of knowledge in the field of Engineering and Technology and should be run parallel to each other. However, B. Tech (Hons) may be treated at par and compatible with B.E/B.Sc. Engineering degree holders as for as grade pay and promotion and other benefits are concerned. The Committee further noted that it was up to the employer to determine the type of qualification required for a particular post.”

Deep study of above referred para will reveal that respondent in reply to para 6 and ground (5) have deliberately omitted “ However, B. Tech (Hons) may be treated at par and compatible with B.E/B.Sc. Engineering degree holders as for as grade pay and promotion and other benefits are concerned.”

- (3) The submissions contain in ground (9), (10), (11), (12) and (13) refers to the accrued right of appellant whereas reply and response thereof is evasive. The respondents have ignored the major factor of the matter that “Notification” has been issued by respondent No. 1 with unreasonable justification inasmuch as the appellant has fundamental right to be promoted as BPS 18 post on the basis of his seniority among the B. Tech (Hnos). The appellant has vested right to be promoted as BPS 18 officer in that he has held the post of Executive Engineer BPS 18 from 14-6-2017 but is illegally denied the right of formal promotion. No reason whatsoever has been shown to deny the right of the appellant to hold post of BPS-18. A look at the “Notification” will reveal that grievance of the appellant has been put at backburner by the respondents deceitfully in that no change has been made and the joint seniority list already maintained has been retained. Importantly Government of Sindh through Notification issued on 19-3-2014 has fixed 20% quota for B. Tech (Hons) and diploma holders for the promotion to BPS-18. Finally the apex Supreme Tribunal of Pakistan while dilating upon the matter in CP No 78-K of 2015 title “Moula Bakhsh “2018 SCMR 2098” Shaikh Versus Chief Minister Sindh” approved, assented and concurred 20% quota allocated for B. Tech (Hons) and Diploma Holders for promotion to BPS 18. The apex Supreme Tribunal Moula Bakhsh case has held that it is the domain of the Government to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one grade to another higher grade whereas it is the authority of the Pakistan Engineering Council to decide whether a particular academic qualification can be equated with another academic qualification but it has no power to say that the government servants/employees holding particular academic qualification cannot be promoted from a particular grade to a higher grade. The “Notification” itself is defiance of Supreme Court judgment rendered in “Moula Bakhsh case. It is reiterated that recently Irrigation Department through Notification dated 2-4-2024, 3-4-2024 and 5-4-2024 has promoted B. Tech (Honours) Degree holders and Diploma holder to the post of BS-18.

(4) The respondents in the joint parawise comments to grounds (14), (15), (16) and (17) have not commented on the lawful submission made by the appellant. Ambiguous, shifty, slippery and oblique reply has been offered establishing the fact that respondents have no defense to the lawful submissions contain in the appeal/writ petition. The appellant has been denied his right to be promoted in the separate category of B. Tech (Hons) engineer in line with quota granted to other similarly placed B. Tech (Hons) Engineers. The appellant being senior most in his own cadre has the right to be promoted accordingly pre-dated to get pensionary benefits. The refusal of the respondents is in clear derogation of the specific orders passed by apex Supreme Tribunal of Pakistan in Moula Bkhsh case, therefore, the respondents have also exposed themselves to be proceeded under the provision of Article 204 of the Constitution of Islamic Republic of Pakistan, 1973 read with section 3 and 5 of the Contempt of Court Ordinance, 2003. Gross illegality has been committed with the appellant and other B. Tech (Hons) engineers due to the personal malafide of the respondents. The apex Supreme Court of Pakistan in the similar circumstances has observed that "The objective of PEC is to regulate the working of professional engineers and consulting engineers and not to regulate the qualification or the working of the engineers in Government or semi-Government departments. Further the definitions of the terms "professional engineer" and "professional engineering work" given in clauses (j) and (k) of section 2 of the Civil Servant Act, 1973 are to be read together therefore, as a corollary to the same, it must follow that the term "professional engineering work" as defined in clause (k) of section 2 ibid is to be performed by a professional engineer as defined in clause (j) thereof, which is evident from section 8 ibid, which defines the functions of the Pakistan Engineering Council. The discriminative attitude and conduct of the respondents in crystal than clear to deprive the appellant from his lawful fundamental right to be promoted at the post of BPS 18. The refusal of the respondent by issuing "Notification" to fix the quota is in clear violation of Article 4, 14 and 25 of the Constitution which ex-facie cannot be approved by any cannon of law, therefore, the entire exercise made by the respondents is to be declared null, void and not sustainable. Great injustice has been done with the appellant for his no default and he has been constrained to knock the door of this honourable Tribunal. The respondents have conceded that according to Notification dated 26-3-2018, ten percent quota by promotion on the basis of seniority-cum-fitness from amongst the Sub-Engineers having Degree of B. Tech (Hons) and have passed Departmental Professional Examination with 5 (five) years' service for

promotion to BS-17 has already given to the incumbent at par with appellant, therefore, denial of such treatment for promotion to BS-18 is illegal, unlawful and clear violation of the rules and policy of the provincial Government of Khyber Pakhtunkhwa. It is important to mention that recently the legality of Notification dated 24th August, 2021 notified by Irrigation Department fixing quota for B. Tech (Hons) has been approved and appeal has been rejected by this honourable Tribunal. The appellant has been agitating for the grant of 20% quota since 15-8-2017 but ironically such matter is illegally and unlawfully lingering on by respondents whereas the appellant has already retired on 27-8-2022 but no concrete decision has been made. The meetings of SSRC were either cancelled or postponed to deny the rights to the appellant and others. Interestingly a look at column 2 of the notification dated 25-11-2022 will reveal that posts of both incumbents either registered with PEC or not have been included as Executive Engineer/Design Engineer/ Senior Engineer/ Research Officer/ Deputy Director Technical/ Senior Engineer (Survey/RMU) (BPS). The appellant in one of the said post can be promoted as BS-18 officer.

- (5) The submissions made in the ground (18), (19) (20 and (21) are true and correct and stance of respondents thereof is illusory. There can be no cavil and dispute that the right of appellant being B. Tech (Hons) engineer has been protected by the apex Supreme Court of Pakistan in that promotion of a senior official who otherwise full fill the criteria being fit has never been denied. The apex Supreme Court has ruled that there is different category and cadre of B. Sc. Engineers and B. Tech (Engineer). The respondents have overlooked such dictum and clear directions of the august Supreme Court in ‘Moula Bakhsh “2018 SCMR 2098” which reveals that apex Supreme Court of Pakistan has categorized B. Sc. Engineers and B. Tech (Hons) Engineers as separate cadre and category, but while issuing “Notification” such classification has been ignored without assigning any reason. The disputed “Notification” dated 25-11-2022 has been issued beyond the recommendation and working paper prepared in the light of minutes of the meeting of the Committee constituted under the Chairmanship of Additional Secretary, P&D Department Khyber Pakhtunkhwa held on 22-4-2022. The said committee after deliberations, in para 6 of Working Paper recommended as under:-

5. In order to implement the Tribunal directions as well as High Level Committee recommendations, C&W Department suggest the following two proposals for placing before SSRC committee for deliberation and decision:

I Standing Service Rules committee (SSRC) is requested to consider the amendment in the existing Service Rules of C&W Department, 2010 for promotion of Assistant Engineers (BS-17) holding the B-Tech (Hnos) and Diploma Holders against non-professional posts in the department according to the judgment of Supreme Tribunal of Pakistan and for the purpose a sub-committee be constituted to analyze and differentiate the existing posts in C&W Department in BS-18, 19 & 20 into purely professional and nonprofessional posts and accordingly submit proposal for amendment in promotion rules of BS-18 in C&W Department.

OR

II. Standing Service Rules Committee (SSRC) is requested to consider amendment in the existing service Rules of C&W Department, 2010 for promotion of Assistant Engineers (BS17) holding the B- Tech (Hons) and Diploma Holders according to their existing strength to BS-18 on the analogy of other like departments as recommended by the High level Committee headed by Additional chief secretary.

It is, therefore, humbly prayed that on acceptance of this appeal, this honourable Tribunal may direct, declare, order and hold:-

- I. That the "Notification" No. SOE/C&WD/8-12/2022 dated issued on 25-11-2022 by the respondents is illegal, without lawful authority and against the fundamental rights of the appellant, therefore required to be declared unlawful.
- II. That the appellant being B. Tech (Hons) Engineer has the right to promoted in BPS 18 on the basis of separate independent 20% quota at par with other Departments of KP province, to be fixed by the respondents and refusal thereof is based on malafide, void ab-initio and discriminative.
- III. That the appellant has been denied to grant 20% quota through "Notification" dated 25-11-2022 being B. Tech (Hnos) Engineer illegally, unlawfully, which cannot sustain and liable to be set aside.
- IV. That B. Tech (Engineers) have been granted and fixed separate quota for B. Tech (Hons) Engineers by Khyber Pakhtunkhwa Energy and Power department, Local Government, Election and Rural Development Department, Irrigation Department and Public Health Engineering (PHE) Department and denial by Communication and Works Department, Khyber Pakhtunkhwa for promotion to BPS 18 is based on discrimination thus void ab initio.
- V. That the appellant is to be promoted to the post of BPS 18 with effect from 15-8-2017, be paid arrears and pensionary benefits.
- VI. Any other appropriate remedy may also be granted.

Bewo

Appellant,

through

Abdul Rauf Rohaila,

Senior Advocate Supreme Court.

12

Affidavit

I, Shaukatullah Shah son of Yaqoob Shah, Former employee of Communication and Works Department, Peshawar, Peshawar do hereby declare and affirm on oath that the contents of above noted rejoinder are true and correct. Nothing contain therein is false.

Deponent

Bewo

Shaukatullah Shah.

CNIC 11201-0376771-9

Cell # 0333-912582



BEFORE THE SERVICES TRIBUNAL, PEHSAWAR

(Original jurisdiction)

13

Service Appeal No. 2325-P/2023

Shaukatullah Shah

Versus

Secretary, Communication and Works Department and others

APPLICATION FOR CONSTITUTION OF LARGER BENCH

Respectfully Sheweth,

The applicant/appellant humbly submits as under:-

- 1. That above noted service appeal is pending in this honourable Tribunal.**
- 2. That in parawise comments it has been asserted that this honourable Tribunal while dealing with similar matter has dismissed Appeal No. 813/2023 through judgment dated 15-9-2023.**
- 3. That with great respect and humility, a deep study of the Notification dated 25-11-2022 impugned in the recent appeal will reveal that by virtue of impugned Notification dated 25-11-2022 the degree holder Engineers and B. Tech (Honors) Degree holders and Diploma Holders have been placed at par whereas both categories cannot be equated in term of judgment of Supreme Court of Pakistan in Moula Bakhsh.**
- 4. That this important aspect of the matter has not been brought to the knowledge of this honourable Tribunal when appeal No. 813/2023 was heard and decided.**
- 5. That since appeal No. 813/2023 was heard and decided by two members bench of this honourable Tribunal, therefore, it would be appropriate in order to reach ends of justice that larger bench may be constituted for the purpose.**

It is, therefore, humbly prayed that on acceptance of this application, a larger bench may be constituted to hear and decide the above appeal.

**Applicant,
through**

**Abdul Rauf Rohaila,
Sr. Advocate Supreme Court.**

Verified on oath that the contents of above application are true and correct. Nothing contain therein is false.

BEFORE THE SERVICES TRIBUNAL, PEHSAWAR

(Original jurisdiction)

Service Appeal No. 2325-P/2023

14

Shaukatullah Shah

Versus

Secretary, Communication and Works Department and others

APPLICATION FOR PRODUCTION OF DOCUMENTS

Respectfully Sheweth,

The applicant/appellant humbly submits as under:-

1. That above noted appeal is pending in this honourable Tribunal.
2. That according to the narrations of facts, it has been claimed that the working paper for promotion of the applicant for his promotion to BS-18 was forwarded to Establishment Department through letter No. SOE/C&WD/4-5/72 dated 21-6-2021.
3. That it would be appropriate in order to reach ends of justice that respondent department may be directed to produce above mentioned referred working paper alongwith annexures.
4. That the production of the said working paper is essential in order to reach ends of justice and for the assistance of this honourable Tribunal.

It is, therefore, humbly prayed that on acceptance of this application, respondent-Communication and Works Department may be directed to produce working paper forwarded to Establishment Department for promotion of the applicant/appellant vide letter No. SOE/C&WD/4-5/72 dated 21-6-2021.


Applicant
through 
Abdul Rauf Rohaila,
Sr. Advocate Supreme Court.

Verified on oath that the contents of above application are true and correct. Nothing contain therein is false.



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-5/72
Dated Peshawar, the June 21, 2021

The Section Officer (PSB)
Establishment & Admn Department
Peshawar

Subject: PROMOTION OF B-Tech (Hons) ASSISTANT ENGINEERS / SDOs
(BS-17) TO THE RANK OF DEPUTY DIRECTOR BS-18 (TECHNICAL)
C&W DEPARTMENT ON REGULAR BASIS

I am directed to refer to the subject noted above and to forward herewith working paper (07 sets) along with related documents duly completed in all respect for promotion of B-Tech (Hons) Assistant Engineers/SDOs (BS-17) to the rank of Deputy Director (BS-18) Technical on regular basis for placing before Provincial Selection Board (PSB) for consideration, please.

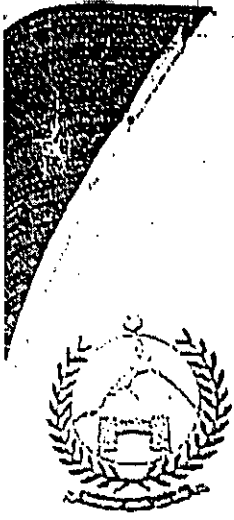
(ZAHOOR SHAH)
SECTION OFFICER (Estb)

Encl. even No. & date

Copy forwarded to the:

1. PS to Secretary C&W Department, Peshawar
2. PA to Additional Secretary C&W Department, Peshawar
3. PA to Deputy Secretary (Admn) C&W Department, Peshawar

Attested to be true
copy



16

11-11-2021 (5)



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT
No.SOE/C&WD/4-5/72
Dated Peshawar, the July, 09, 2021

To

The Section Officer (PSB),
Establishment Department,
Peshawar.

Subject:- PROMOTION OF B-TECH (HONS) ASSISTANT ENGINEERS/SDOS (BS-17) TO THE RANK OF DEPUTY DIRECTOR BS-18 (TECHNICAL) C&W DEPARTMENT ON REGULAR BASIS.

I am directed to refer to the subject noted above and to inform that this Department's letter of even number dated. 21.06.2021 may be considered as cancel/withdrawn.

2. I am further directed to request that the case may be returned (in original) along with relevant documents, please.

Zahoor
09.7.2021
(ZAHOOR SHAH)
Section Officer (Estab)

Copy for information to:-

1. PS to Secretary C&W, Department.
2. PA to Additional Secretary C&W, Department.
3. PA to Deputy Secretary Admn. C&W Department.

Attest
Section Officer (Estab)

*Attested to be true
Copy*

17



FATA SECRETARIAT
(GENERAL SECRETARIAT & ADMINISTRATION DEPARTMENT)
WAKSAK ROAD PESHAWAR

NOTIFICATION:-

No. FS/E/100-23(Vol-44)/3453-65. The following posting / transfers are hereby ordered with immediate effect, in the public interest:-

S. No	Name & Designation	From	To	Remarks
1.	Jalal-ud-Din Mehsud (BS-18)	Executive Engineer Buildings FATA Division Khyber Agency	Report to office of Chief Engineer Works & Services Department (FATA)	
2.	Noor Sahib Khan (BS-18)	Executive Engineer C&W FATA Division Mohmand Agency.	Executive Engineer Buildings FATA Division Khyber Agency.	Vice No-1
3.	Azmatullah (GS-17)	Executive Engineer (OPS) C&W FATA Division Orakzai Agency.	Executive Engineer (OPS) C&W FATA Division Mohmand Agency.	Vice No-2
4.	Sraukatullah Shah (BS-17)	SDO C&W FATA Sub Division South Kalyas Orakzai Agency.	Executive Engineer (CPS) C&W FATA Division Orakzai Agency.	Vice No-3
5.	Asad Ali (BS-18) Executive Engineer Buildings FATA Division Kurram Agency.	He is entrusted to hold additional charge of the vacant post of Executive Engineer Highway FATA Division Kurram Agency in addition to his own duties.		

ADDITIONAL CHIEF SECRETARY (FATA)

Dated 21/04/2017
Copy to:-

1. Political Agents Khyber, Mohmand, Orakzai & Kurram Agencies.
2. Additional Accountant General (PR) Sub Office Peshawar.
3. Chief Engineer (FATA) Works & Services Department Peshawar.
4. Executive Engineer Building FATA Division Khyber Agency.
5. Executive Engineer C&W FATA Division Mohmand Agency.
6. Executive Engineer Buildings FATA Division Mohmand Agency.
7. Executive Engineer C&W FATA Division Orakzai Agency.
8. Executive Engineer C&W FATA Division Kurram Agency.
9. Executive Engineer Buildings FATA Division Kurram Agency.
10. PS to Additional Chief Secretary (FATA)
11. PS to Secretary AI&C Department (FATA).
12. Agency Accounts Officers Khyber, Mohmand, Orakzai & Kurram Agencies.
13. Officers concerned

[Signature]
Sd/-: [Name] (ES/ab)

Attested to be true
[Signature]



EXECUTIVE ENGINEER C&W FATA DIVISION ORAKZAI

Sl. No.	NAME	FROM	TO
30	Engr. ASMAT ULLAH	15. 08.2014	27.04.2017
31	Engr. SHAUKAT ULLAH SHAH	27. 04.2017	11.09.2019
32	Engr. AZMAT ULLAH	11. 09.2019	04.12.2019
33	Engr. MUHAMMAD SAJID	05.12.2019	13.01.2020
34	Engr. MUHAMMAD RIAZ KHAN DAUR	14. 01. 2020	23.07.2020
35	Engr. FARMAN ULLAH	24.07.2020	

Checked by Mr. Iqbal
26/7/20

19



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the November 04, 2016

NOTIFICATION:

No SOE/C&W/4-2/2016 (SPQA) On the recommendation of Departmental Promotion Committee (DPC), the Competent Authority has been pleased to promote the following B-Tech (Hons) Sub Engineers to the post of Assistant Engineers/SDOs (BS-17) of C&W Department on regular basis, with immediate effect:

1. Mr. Lal Badsah — On Regular basis
2. Mr. Sher Wali Jang — On Regular basis
3. Mr. Zamir Jang — On Regular basis
4. Mr. Muhammad Ghazanfarullah — On Regular basis
5. Mr. Shaukatullah Shah — On Regular basis

2. The officers will be on probation for a period of one year except Sr.No.1 as he will be on probation till his retirement.

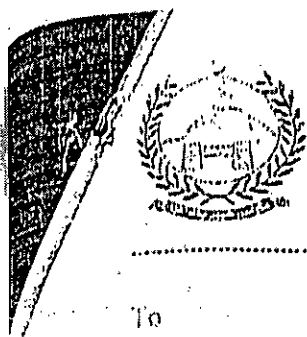
3. Consequent upon their promotion as Assistant Engineers/SDOs (BS-17) on regular basis, the Competent Authority is further pleased to order the transfer/posting of the following officers of C&W Department, with immediate effect, in the public interest:

Sl No.	Name of Officers	Existing posting	Proposed for actualization/ Adjustment	Remarks
1	Mr. Lal Badsah AE (BS-17)	Sub Engineer O/O XEN C&W Division Malakand, holding the additional charge of the vacant post of SDO, in addition to his own duty	SDO C&W Sub Division Malakand	Against vacant post
2	Mr. Sher Wali Jang AE (BS-17)	Assistant Director (Tech) Anti-Corruption Establishment Khyber Pakhtunkhwa Peshawar in his own pay & Scale.	Assistant Design Engineer O/O CE (CDO) C&W Peshawar, after actualization of his promotion, reposted as Assistant Director (Tech) Anti Corruption Establishment Khyber Pakhtunkhwa Peshawar	—
3	Mr. Zamir Jang AE (BS-17)	Sub Engineer O/O XEN Highway Division Mardan, holding the additional charge of the vacant post of SDO, in addition to his own duty	SDO Highway Division Mardan	Against vacant post
4	Mr. Muhammad Ghazanfarullah AE (BS-17)	Sub Engineer O/O XEN Provincial Building (Constn) Division No.II, Peshawar	Junior Engineer (Survey/ RMU) O/O CE (CDO) C&W Peshawar	-do-
5	Mr. Shaukatullah Shah AE (BS-17)	SDO (OPS) C&W FATA Sub Division South Kalaya, Orakzai Agency.	SDO C&W FATA Sub Division South Kalaya, Orakzai Agency.	—

*inserted to be true
Copy*

SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department

P.T.O.



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

NO. SOE/C&W/08-12/SSRC /2018
Dated 05.03.2018

20
1

To

The Secretary,
Law Department,
Government of Khyber Pakhtunkhwa

**SUBJECT: AMENDMENT IN THE RECRUITMENT RULES-
RESERVATION OF 20% QUOTA FOR PROMOTION OF B-
TECH (HONS) SDOS (BS 17) TO THE POST OF EXECUTIVE
ENGINEER (BS-18)**

Dear Sir,

I am directed to refer to the law department letter No. Reg:1(2)79/C&W/Vol-11/29204-06 dated 24-10-2017 on the subject noted above and to forward herewith a copy of Pakistan Engineering Council letter No. PEC/Coord/KPK/C&W/2018 dated 30.01.2018 (which is self-explanatory) with the request to render advice of the law department as to whether the case pertaining to the reservation of 10% quota for promotion of B-Tech (Hons) SDOs (BS-17) to the post of XEN (BS-18) may be placed before the SSRC or otherwise.

Abid
SECTION OFFICER (Estb.)

ENDST OF EVEN NO. & DATE

Copy forwarded to:

- 1. P.S to Secretary, C&W Department

Abid
SECTION OFFICER (Estb.)

D. Zahid
5/3/18

Attested to be true
Copy

ATTESTED



**GOVERNMENT OF THE KHYBER PAKHTUNKHWA,
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT**

No. Reg: 1(1)79/C&W/Vole-II/15179-2018
Pesh : Dated: The : 14-03-2018

To

The Secretary,
Government of Khyber Pakhtunkhwa,
Communication and Works Department.

2886
15-3-2018
Secretary, C&W Deptt.
DGA
16/3 ASIST

**SUBJECT: Amendment in the Recruitment Rules Reservation of 20%
Quota for Promotion of B-Tech (Hons) SDOS (BPS-17) to the
Post of Executive Engineer (BPS-18).**

Dear Sir,

I am directed to refer to your Department letter No.SOE/C&W/08-12/SSRC/2018, dated: 05-03-2018 on the subject noted above and to state that this Department has already communicated its views regarding the subject vide its letter No.Reg:1(1)79/C&W/Vole-II/29204-06, dated:24-10-2017 (copy enclosed).

SOE/16/3

Yours faithfully,


(UMAR ALI)
ASSISTANT LEGAL DRAFTER-I

Encls: No. & date even:-

- Copy is forwarded for information to:
- 1. PS to Secretary, Government of the Khyber Pakhtunkhwa Law Department.
- 2. PA to Legal Drafter, Law Department.
- 3. PA to Deputy Legal Drafter-I, Law Department w/r to Legis No.503, dated: 6-3-2018.

ASSISTANT LEGAL DRAFTER- I

Attested to be true
Copy

ATTESTED

18

ANNEXURE - "E"

To

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

Subject: - AMENDMENT IN THE RECRUITMENT RULES - RESERVATION OF
20% QUOTA FOR PROMOTION OF B.TECH (Hons) DEGREE HOLDER
SDOs (BS-17) TO THE POST OF XEN ETC. (BPS-18).

Dear Sir,

Respectfully we B.Tech (Hons) Degree Holder SDOs (BS-17) submit the
following low lines for perusal and sympathetic consideration please:-

1. That the Supreme Court of Pakistan vide judgment in Sou Malu petition No.52 of 1993 considered the B.Tech (Hons) Degree at par with B.E/BSc Engineering Degree.
2. That the Higher Education Commission in its letter dated 31.07.2009 clarified equivalency of the B.Tech (Hons) Degree at par with B.E/B.Sc Engineering Degree for the purpose of employment in light of the decision taken by the University Grants Commission in 39th meeting held on 12.02.1998.
3. That in pursuance of the judgment of Apex Court and clarification of Higher Education Commission, the Khyber Pakhtunkhwa Establishment & Administration Department advised the PHE Department to place the case of B.Tech (Hons) degree holder Sub-Engineers before the SSRC. The Committee observed that the degree of B.Tech (Hons) is not similar to B.E/B.Sc Engineering professionally but for the purpose of pay, grade and promotion, B.Tech (Hons) Degree be treated at par with B.E/B.Sc Engineering.
4. That in view of the E&A Department advice and decision of the SSRC, provincial Works Departments i.e. Irrigation, PHE & C&W carried out amendments in the respective recruitment rules by reserving different quotas for promotion of B.Tech (Hons) Degree holder Sub-Engineers to the post of SDO (BS-17).
5. That keeping in view our age factor and in the presence of huge number of young SDOs inducted in the C&W Department through PSC, the aged B.Tech (Hons) Degree holder SDOs (BS-17) having hardly 3-7 years left towards retirement, will never be promoted as XEN (BS-18).
6. That in order to benefited the B.Tech (Hons) Degree holder SDOs from promotion to the post of XEN (BS-18), the Govt. of Sindh, Works & Services Department made amendments in the recruitment rules in 2014 whereby 80%, 13% & 7% quotas have been reserved for promotion to the post of XEN for SDOs, having B.E/B.Sc Engineering, B.Tech (Hons) Degree and Diploma holder respectively (copy enclosed).
7. That since in the Khyber Pakhtunkhwa entire Works Departments, Khyber Pakhtunkhwa, the SDOs, having CAE are not considered for promotion as XEN (BS-18), therefore, 80% and 20% quotas may be reserved for promotion to the post of XEN (BS-18) for SDOs (BS-17) having B.E/B.Scs Engineering and B.Tech (Hons) Degrees respectively.

Attested

Continued on Page-2

Attested to be true to be true copy

1/5


Page-2

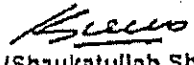
8. The Quota reserved by the Sindh Government for promotion of B.Tech (Hons) degree holders SDOs to the post of XEN (BPS-18) has been confirmed/upheld by the Supreme Court of Pakistan vide its judgment announced on 15.08.2014 (copy attached).
9. That the Islamabad Electric Supply Company has also reserved 10% promotion quota against the post of Senior Engineers for Junior Engineers having qualification of B.Tech (Hons) (copy attached).

In view of the narration/facts above, the Secretary C&W Department, being Chairman of the SSRG may consider the genuine request of aged B.Tech (Hons) Degree holder SDOs (BS-17) and reserve 20% quota for promotion against the post of XEN on the analogy of Sindh Government and Islamabad Electric Supply Company, so as to avoid unnecessary litigations please.

Your's obediently

Dated: 15-08-2017

1. 
(Shor Wali Jang)
Deputy Director (Tech) (OPS),
Anti-Corruption Establishment,
Khyber Pakhtunkhwa, Peshawar.

2. 
(Shaukatullah Shah)
Executive Engineer (OPS)
C&W FATA Division,
Orakzai Agency.

Attested

to be true copy

Attested to be true
Copy

24

H

**TENTATIVE SENIORITY LIST OF ASSISTANT ENGINEERS/SDOs BS-17
COMMUNICATION AND WORKS DEPARTMENT As Stood On 20.01.2022**

SL No.	Name of Officer	Academic Qualification	Date of Birth	Domicile	Date of Ist Entry In Govt. Service	Date of Appointment/ Promotion in Present Grade	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
01	Nadia Bashir	B.Sc (Civil)/ MS (Transportation)	29/01/1986	Abbottabad	24/12/2010	24/12/2010	
02	Muhammad Imran	B.Sc/M.Sc (Civil)	20/08/1985	Swat	24/12/2010	24/12/2010	
03	Muhammad Asad	B.Sc (Civil)	24/12/1963	Kohat	07/12/1990	24/01/2012	
04	M. Ikramullah Khan	B.Sc (Mech)	14/02/1989	S.W. Agency	06/03/2013	06/03/2013	
05	Salih Dar	B.Sc (Civil)	15/02/1990	Dir	22/04/2013	22/04/2013	
06	Fawad Bilal	B.Sc (Civil)	18/04/1988	Dir Upper	22/04/2013	22/04/2013	
07	Muhammad Ayaz	B.Sc (Civil)/MS (Constn/Management)	10/04/1989	Malakand	22/04/2013	22/04/2013	
08	Ahmad Ali	B.Sc (Civil)	09/05/1989	Mansehra	22/04/2013	22/04/2013	
09	Umer Hayat	B.Sc (Civil)	02/03/1975	Karak	22/04/2013	22/04/2013	
10	Khalid Usman	B.Sc (Civil)	02/02/1978	F.R.Kohat	30/04/2013	30/04/2013	
11	Hayatullah Noor	B.Sc (Civil)	19/04/1979	N.W. Agency	30/04/2013	30/04/2013	
12	Hayatullah Jan	B.Sc (Civil)	03/03/1965	Lakki Marwat	12/12/1990	03/07/2013	
13	Zahoor Elahi Balg	B.Sc (Civil)	07/01/1964	Haripur	16/03/1988	03/07/2013	
14	Shahid Nawaz	B.Sc (Civil)	01/08/1964	Peshawar	19/02/1993	19/05/2014	
15	Muhammad Asghar Khan	B.Sc (Civil)	30/12/1964	Swabi	17/03/1988	19/05/2014	
16	Sher Behadar	B.Sc (Civil)	03/05/1965	Dir Lower	19/12/1990	13/10/2015	
17	Muhammad Ghazzenanullah	B-Tech (Hons)	04/05/1964	Bannu	21/10/1986	04/11/2016	

Attested to be true
Copy

25

Sl. No.	Name of Officer	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)
18	Shaukat Ullah Shah	B-Tech (Hons)	28/08/1962	Lakki Marwat	14/03/1988	04/11/2016	
19	Faizan Akbar	B.Sc/M.Sc (Civil)	20/04/1990	Swabi	10/05/2017	10/05/2017	
20	Muhammad Junaid	B.Sc (Civil)/M.S (Trans)	17/02/1991	Dikhan	10/05/2017	10/05/2017	
21	Ifkhar Qayum	B.Sc (Civil)	01/05/1992	Karak	10/05/2017	10/05/2017	
22	Nasir Iqbal	B.Sc (Civil)/M.S (Trans)	18/07/1989	Malakand	10/05/2017	10/05/2017	
23	Wasim Akbar	B.Sc (Civil)	05/05/1988	Abbottabad	10/05/2017	10/05/2017	
24	Muhammad Ishaq	B.Sc (Civil)	10/01/1991	FR Peshawar	14/07/2017	14/07/2017	
25	Khushtul Khan	B.Sc (Civil)	01/08/1992	Lakki Marwat	10/05/2017	10/05/2017	
26	Abdulah	B.Sc (Civil)	15/03/1985	Swabi	10/05/2017	10/05/2017	
27	Umair Ahmed Jan	B.Sc (Civil)	28/10/1994	Manshra	10/05/2017	10/05/2017	
28	Akbar Mehboob Khattak	B.Sc (Civil)	01/01/1990	Nowshera	10/05/2017	10/05/2017	
29	Inran Khan	B.Sc/M.Sc (Civil)	01/04/1989	Orakzal Agy	14/07/2017	14/07/2017	
30	As Rehman	B-Tech (Hons)	12/11/1984	Malakand	13/03/1988	04/01/2018	
31	Muhammad Idrees Afzal	DAE (Civil)	01/06/1962	Dikhan	16/12/1981	04/01/2018	
32	Wasim Shah	B.Sc (Civil)	01/01/1994	Malakand	26/08/2019	26/08/2019	
33	Tariq Murteza	B.Sc (Civil)	08/10/1991	Peshawar	26/08/2019	26/08/2019	
34	Efawal Hussain	B.Sc (Civil)/MS (Geo)	03/08/1993	Swabi	26/08/2019	26/08/2019	
35	Sahibzada Fahad Noor	B.Sc/MS (Civil)	07/12/1990	Peshawar	26/08/2019	26/08/2019	
36	Jawad Ali	B.Sc (Civil)	04/03/1991	Mohmand agy.	26/08/2019	26/08/2019	
37	Zia Ullah	B.Sc (Civil)	15/01/1994	Shangla	26/08/2019	26/08/2019	
38	Abdur Rehman	B.Sc (Civil)	08/05/1994	Mardan	26/08/2019	26/08/2019	

Original
 2/10/2019
 Copy

WORKING PAPER

AMENDMENT IN THE RECRUITMENT RULES - RESERVATION OF 20% QUOTA FOR PROMOTION OF B-TECH (HONS) SDOs (BS-17) TO THE POST OF EXECUTIVE ENGINEER (BS-10)

Pursuant to the Supreme Court of Pakistan Islamabad judgment dated 15.08.2014 and on the analogy of Works & Services Department Government of Sindh, a B-Tech (Hons) degree holder SDOs (BS-17) of C&W Department has submitted a int representation with the request that 20% quota may be reserved for them for promotion to the post of XEN etc (BS-10) in the Department (Annex-I):-

Short facts of the application are as under:-

- i. In pursuance of the judgment of Apex Court on suo-moto petition No.53 of 1993 and clarification of Higher Education Commission, the Khyber Pakhtunkhwa Establishment & Admin. Department advised the PHE Department to place the case of B-Tech (Hons) Sub Engineers before the SSRC. The committee observed that B-Tech (Hons) is not similar to B.E/B.Sc Engineering professionally but for the purpose of pay, grade and promotion, B-Tech (Hons) be treated at par with B.E/D.Sc Engineering.
- ii. In view of ESA Department advice and decision of the SSRC, Provincial Works Departments i.e. Irrigation, PHE and C&W carried out amendments in the respective recruitment rules by reserving different quotas for promotion of B-Tech (Hons) Sub Engineers to the post of SDO (BS-17).
- iii. Keeping in view their age factor and in the presence of huge number of young SDOs inducted in the C&W Department through Public Service Commission, the aged B-Tech (Hons) holder SDOs (BS-17) having hardly 5-7 years left towards retirement will never be promoted as Executive Engineer (BS-10).
- iv. In order to benefited the B-tech (Hons) holder SDOs from promotion to the post of XEN (BS-10), the Govt of Sindh Works & Services Department made amendments in the recruitment rules in 2014 whereby 90%, 10% & 07% quotas have been reserved for promotion to the post of XEN for SDOs, having B.E/B.Sc Engineering, B-Tech (Hons) and Diploma Holder respectively.
- v. Since in the Khyber, Pakhtunkhwa, entire Works Departments, the SDOs, having DAE are not considered for promotion as XEN (BS-10), therefore, 90% and 20% quotas may be served for promotion to the post of XEN (BS-10) for SDOs (BS-17) having B.E/B.Sc Engineering and B-Tech (Hons) respectively.
- vi. The quota reserved by the Sindh for promotion of B-Tech (Hons) SDOs to the post of XEN (BS-10) has been confirmed/upheld by the Supreme Court of Pakistan vide its judgment dated 15.08.2014 Annex-II.
- vii. The Islamabad Electric Supply Company has also reserved 10% promotion quota against the post of Senior Engineers for Junior Engineers having qualification of B-Tech (Hons), Annex-III.

Keeping in view the strength of B.E/B.Sc Engineering and B-Tech (Hons) degrees holder SDOs (BS-17), this Department proposes to reserve 90% & 10% quotas for promotion to post of XEN etc (BS-10) for SDOs (BS-17) having B.E/B.Sc Engineering and B-Tech (Hons) degrees respectively as per details given in the proforma (Annex-IV).

Attested

Attested

to be true copy

to be returned

Attested to be true Copy

27

001

The SSNC is therefore requested to consider the proposal at para-3 above and approve the amendments in the existing service rules for the post of XE(I) etc (DS-10) mentioned at Sr.No.3 of the appendix/service rules notified in 2010.

[Signature]
(MIBAI/ICHAII)
DEPUTY SECRETARY (ADMIN)
CAW DEPARTMENT

Attested
[Signature]
to be true copy

Attested
[Signature]
to be true copy

to be true copy

Attested to be true
Copy

Scanned by CamScanner

102



GOVT OF PUNJAB
COMMUNICATION & WORKS DEPARTMENT

No. SDE/C&WD/B-12/2017
Dated Peshawar, the November 21, 2017

- To:
1. The Special Secretary (Reg) Establishment & Admin Department, Peshawar
 2. The Additional Secretary (Reg) Finance Department, Peshawar
 3. The Chief Engineer (Centre) C&W Department, Peshawar

Subject: AMENDMENT IN THE APPOINTMENT AND RECRUITMENT RULES, 2010 OF THE COMMUNICATION & WORKS DEPARTMENT.

I am directed to refer to the subject noted above and to enclose herewith working paper duly signed pertaining to the reservation of promotion quota B-Tech (Hons) Assistant Engineers/SDOs (BS-17) to the rank of Executive Engineer (BS-16). The meeting of the SSRC of C&W Department is scheduled to be held on 28.11.2017 at 1100 Hours in the Committee Room of C&W Secretariat, Peshawar.

2. Furthermore, it is pertinent to mention that the case with regard to the Enhancement of quota of B-Tech (Hons) Sub Engineers from 3.5% to 10% to the post of Assistant Engineers/SDO (BS-17) was discussed in the SSRC meeting held on 19.10.2017 but the committee unanimously decided to obtain information from Irrigation Department about the procedure adopted while reserving 08% quota for B-Tech (Hons) Degree Holder Sub Engineers for promotion to the post of Assistant Engineer/ SDO (BS-17). Accordingly, the information obtained (copy enclosed). This case will also be discussed in the scheduled meeting.

3. It is, therefore, requested to make it convenient to attend the aforesaid meeting on the scheduled date, time and venue.

Yours faithfully

(USMAN JAN)
SECTION OFFICER (Esib)

Enclosure No. & date
Copy forwarded for information to the:

1. PS to Secretary C&W Department, Peshawar
2. PA to Additional Secretary C&W Department, Peshawar
3. PA to Deputy Secretary (Admin) C&W Department, Peshawar

Attested
to be true copy

SECTION OFFICER

Attested to be true
Copy

13



GOVT OF PUNJAB
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/12/2017
Dated Peshawar, the November 27, 2017

To
21/11/17
23/11/17
26/11/17
27/11/17
Subject

- 1. The Special Secretary (Reg)
Establishment & Admin Department, Peshawar
- 2. The Additional Secretary (Reg)
Finance Department, Peshawar
- 3. The Chief Engineer (Centre)
C&W Department, Peshawar

AMENDMENT IN THE APPOINTMENT AND RECRUITMENT RULES, 2010 OF THE COMMUNICATION & WORKS DEPARTMENT

I am directed to refer to this Department letter of even number dated 24.11.2017 on the subject noted above and to state that the meeting of the Standing Service Rule Committee (SSRC) has been re-scheduled, which will now to be held on 28.11.2017 at 1:00 hours in the Committee Room of C&W Secretariat Peshawar.

It is, therefore, requested to make it convenient to attend the aforesaid meeting on the scheduled date, time and venue.

Yours faithfully

(USMAN JAN)
SECTION OFFICER (Estt)

Encls even No. & date

Copy forwarded for information to the:

- 1. PS to Secretary C&W Department, Peshawar
- 2. PA to Additional Secretary C&W Department, Peshawar
- 3. PA to Deputy Secretary (Admn) C&W Department, Peshawar

Attested
to be true copy

SECTION OFFICER (Estt)

Attested to be true
Copy

30

187

Handwritten signature and a circular stamp.



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN. DEPARTMENT
(REGULATION WING)

No.SOR-V(E&AD)/1-1/C&W/2019/Vol-V
Dated 28th January, 2021

To

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

Subject: AMENDMENT IN THE APPOINTMENT AND RECRUITMENT
RULES, 2010 OF COMMUNICATION AND WORKS
DEPARTMENT.

Dear Sir,

I am directed to refer to your letters No.SOE/C&WD/8-12/2020 dated 28-12-2020 on the subject noted above and to state that as per rule-3 of the Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the subject case may be placed before the Standing Service Rules Committee (SSRC)

Yours faithfully,

(Sultan Wazir Khan)
SECTION OFFICER (REG-V)

End of copy No. & Date.

Copy forwarded to:

1. PS to Secretary, Establishment Department.
2. PA to Deputy Secretary (R-III) Establishment Department.

SECTION OFFICER (REG-V)

Attested to be true



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/4-572
Dated Peshawar, the June 21, 2021

The Section Officer (PSB)
Establishment & Admn Department
Peshawar

Subject: PROMOTION OF B-Tech (Hons) ASSISTANT ENGINEERS / SDOs
(BS-17) TO THE RANK OF DEPUTY DIRECTOR BS-18 (TECHNICAL)
C&W DEPARTMENT ON REGULAR BASIS

I am directed to refer to the subject noted above and to forward herewith working paper (07 sets) along with related documents duly completed in all respect for promotion of B-Tech (Hons) Assistant Engineers/SDOs (BS-17) to the rank of Deputy Director (BS-18) Technical on regular basis for placing before Provincial Selection Board (PSB) for consideration, please.

(ZAHOOR SHAH)
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to the:

1. PS to Secretary C&W Department, Peshawar
2. PA to Additional Secretary C&W Department, Peshawar
3. PA to Deputy Secretary (Admn) C&W Department, Peshawar

Attested to be true
Copy

32

Handwritten signature/initials in a circle.



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT
No.SOE/C&WD/4-5/72
Dated Peshawar, the July, 09, 2021

To

The Section Officer (PSB),
Establishment Department,
Peshawar.

Subject: PROMOTION OF B-TECH (HONS) ASSISTANT ENGINEERS/SDOS (BS-17) TO THE RANK OF DEPUTY DIRECTOR BS-18 (TECHNICAL) C&W DEPARTMENT ON REGULAR BASIS.

I am directed to refer to the subject noted above and to inform that this Department's letter of even number dated. 21.06.2021 may be considered as cancel/withdrawn.

2. I am further directed to request that the case may be returned (in original) along with relevant documents, please.

Zahoor
09.7.2021
(ZAHOOR SHAH)
Section Officer (Estab)

Copy for information to:-

1. PS to Secretary C&W, Department.
2. PA to Additional Secretary C&W, Department.
3. PA to Deputy Secretary Admn, C&W Department.

Handwritten signature/initials.

Section Officer (Estab)

Attested to be true
Copy



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMIN. DEPARTMENT
(REGULATION WING)

Dated: Peshawar, the 07th September, 2021

NOTIFICATION

No: SOR-V(E&AD)-17/2021: In order to address the issues of B.Sc/B.Tech Engineers, the competent authority is pleased to constitute a Committee comprising of the following:-

- | | |
|---|----------|
| i. Additional Chief Secretary, P&D Department | Chairman |
| ii. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa | Member |
| iii. Secretary, Establishment Department | Member |
| iv. Secretary, Law Department | Member |
| v. Co-opted Members as deemed by the Committee | Member |

TORs of the Committee

- To consider various aspects of the issue in the prevailing circumstances of B.Sc/B.Tech Engineers.
- To look into the various Courts judgments passed with regard to B.Sc/B.Tech Engineers as per merits of the case.
- To consider the issue in the light of available Service Rules.
- To consider any other issue pertaining to the subject matter.
- The committee shall finalize its recommendations with viable proposals for perusal of the competent authority within 30 days.

Chief Secretary
Khyber Pakhtunkhwa

Ends: Nil. & Date even.

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt of Khyber Pakhtunkhwa, Establishment Department.
4. Secretary to Govt of Khyber Pakhtunkhwa, Law Department.
5. PS to Chief Secretary, Khyber Pakhtunkhwa.
6. PS to Secretary, C&W Department.
7. PS to Secretary, Irrigation Department.
8. PS to Secretary, I&E Department.

[Signature]
DEPUTY SECRETARY (REG-III)

[Signature]
Witnessed to be true
CO-2

ATTESTED

34



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the July 16, 2021

NOTIFICATION:

No. SOE/C&WD/3-1/2021. The Competent Authority is pleased to cancel/withdraw the placing of services of Mr. Shaukat Ullah Shah Assistant Engineer / SDO (BS-17) awaiting posting, at the disposal of Establishment Department for further posting in Anti Corruption Establishment Khyber Pakhtunkhwa Peshawar (appearing at SI.No.3), issued vide this Department Notification of even number dated 01.07.2021, in the best public interest.

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. Secretary to Govt of Khyber Pakhtunkhwa Higher Education Department, Peshawar
3. Chief Engineer (North) C&W Swat stationed at Saidu Sharif
4. Chief Engineer (Mega Projects) Peshawar
5. Managing Director PKHA Peshawar
6. Superintending Engineer Mega Projects Peshawar
7. Executive Engineer Mega Projects-I, Peshawar
8. Executive Engineer Building Division Swat
9. Executive Engineer Mega Projects Swat
10. District Accounts Officer Swat
11. PS to Special Assistant to Chief Minister Khyber Pakhtunkhwa for C&W Department
12. PS to Secretary Establishment Department, Peshawar
13. PS to Secretary, C&W Department Peshawar
14. PA to Additional Secretary C&W Department Peshawar
15. PA to Additional Secretary (Tech) C&W Department Peshawar
16. PA to Deputy Secretary (Admn), C&W Department Peshawar
17. Officer concerned
18. Office order File/Personal File

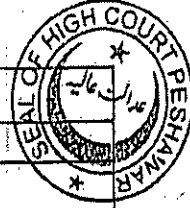
Za-hoor
16.7.2021
(ZAHOOR SHAH)
SECTION OFFICER (ESIB)

Noted to be true
Copy

35

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET



Date of Order or Proceedings	Order or other Proceedings with Signature of Judge(s).
1	2
12.12.2022	<p><u>COC No.350-P/2022 in WP No.2707-P/2021</u></p> <p>Present: Mr. Abdul Rauf Rohalla, Advocate, for the petitioner. Mr. Rab Nawaz Khan, AAG for the respondents.</p> <p>*****</p> <p><u>SHAKEEL AHMAD, I.</u>- It appears from the record that in the earlier round of litigation, the petitioner had brought a Constitutional Petition No.2707-P/2021 for the following relief: -</p> <p><i>"On acceptance of this writ petition:</i></p> <p>A. Direct Respondent No.4. (Secretary Communication & Works Department, Government of Khyber Pakhtunkhwa being the Chairman of SSRC to convene SSRC meeting at the earliest in accordance with law.</p> <p>B. Grant any other relief that this honorable Court deems fit and appropriate in the facts and circumstances of the case."</p> <p>2. After providing opportunity of hearing to the learned counsel for the parties, the writ petition was disposed of in the following manner: -</p> <p>"We, therefore, direct the Committee so constituted vide Notification dated 07.09.2021 to abide by the said notification because one of its TORs was "The Committee shall finalize its recommendation with viable proposals for perusal of the competent authority within 30 days." albeit despite lapse of about 8 months, the matter has not yet been finalized. Accordingly, the Committee is directed to finalize its recommendations within 60 days positively.</p> <p>This and the connected Writ Petition No.2707-P/2021 are disposed of in the above manner."</p>

ATTESTED
EXAMINER
Peshawar High Court

Attested to be true
Copy

3. Pursuant to the judgment of this Court, referred to above, the respondents have amended the relevant rules through Notification No. SOE/C&WD/8-12/2022 dated 25.11.2022. No useful purpose would be served if contempt of Court proceedings is initiated against the respondents as judgment of this Court has already borne fruit, if petitioner is still aggrieved of the amended notification, we leave it to open to him to file "Fresh Constitutional Petition for redressal of his grievance, if so desired.

4. In view of the above, the instant COC is dismissed having achieved its purpose. However, the petitioner shall be at liberty to challenge the vires of the Notification dated 25.11.2022 issued by the Provincial Government of Khyber Pakhtunkhwa, if he is still aggrieved of the same.

[Signature]

JUDGE

[Signature]

JUDGE

63640
 Date of Presentation of Application: 19/12/2022
 No of Pages: 5-9
 Copying fee: JPK
 Total: JPK
 Date of Preparation of Copy: 19/12/2022
 Date of Delivery of Copy: 19/12/2022
 Received By: *[Signature]*

[Signature]

FILED TO BE TRUE COPY
 Pursuant to the provisions of the Provincial Government of Khyber Pakhtunkhwa under Article 107 of the Constitution of Pakistan Order 102

19 DEC 2022

(Ayub GS)

(DB)

Hon'ble Mr. Justice Shakeel Ahmad
Hon'ble Mr. Justice Syed Arshad Ali

Attested to be true
Copy



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SO(LII)/C&W/2-943/2021

Dated Peshawar, the March 22, 2022

37

To

The Secretary to
Govt of Khyber Pakhtunkhwa
Establishment Department, Peshawar

Subject:

WRIT PETITION NO.2707-P/2021 AND WRIT PETITION NO.1539-P/2021
WITH CMS NO.1476, 1772 OF 2021 AND 229 OF 2022 -NIAMAT GUL SDO &
OTHERS VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH
CHIEF SECRETARY & OTHERS.

Dear Sir,

I am directed to refer the Establishment Department (Judicial wing) letter No.SO(LII-I)E&AD/2-5638/2021 dated 11.03.2022 on the subject noted above and to state that Chief Secretary Khyber Pakhtunkhwa has constituted a high level committee for consideration the stance of Civil Engineers/B-Tech Holders of Works Departments. However, the committee has not finalized/submitted the report to the Chief Secretary Khyber Pakhtunkhwa. Once the committee submitted its report, further necessary action will be taken accordingly, please.

Yours' faithfully

SECTION OFFICER (Estb)

Encl even No. & date

Copy forwarded to the:

1. Section Officer (Litigation-I) Establishment Department, Peshawar
2. Section Officer (Litigation) C&W Department, Peshawar
3. PS to Secretary C&W Department, Peshawar
4. PA to Additional Secretary C&W Department Peshawar
5. PA to Deputy Secretary (Admn) C&W Department Peshawar

Alam
22.03.2022
SECTION OFFICER (Estb)

Scanned with CamScanner

Attested to be true
Copy



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

No.SOR-V(E&AD)/7-1/KC/2022/Irrig:
Dated 22nd March, 2022.

To

The Section Officer (Litigation-I),
Establishment Department.

Subject: WRIT PETITION NO.2707/2021 SHAUKAT ULLAH SHAH VS
GOVT. OF KHYBER PAKHTUNKHWA
AND
WRIT PETITION NO. 1539-P/2021 NAIMAT-GUL VS GOVT. OF
KHYBER PAKHTUNKHWA & OTHERS.

Dear Sir,

I am directed to forward herewith a copy of Law Department letter No.SO(Lit)/Law Department/Misc/2022/Naimat Gul-Shaukat Ullah dated 21.03.2022 alongwith its enclosures and minutes of the committee meeting constituted under the chairmanship of Additional Chief Secretary for necessary action and to attend the Court on 24.03.2022, please.

Yours faithfully,

SECTION OFFICER (REG-V)

Encl: As above.

Endst: of even No. & Date.

Copy forwarded to:

1. Secretary to Govt. of Khyber Pakhtunkhwa, Law Parliamentary Affairs and Human Rights Department with reference to his letter referred above.
2. Secretary to Govt. of Khyber Pakhtunkhwa Communication & Works Department.
3. PA to Additional Secretary (Reg-II) Establishment Department.

SECTION OFFICER (REG-V)

Attested to be true
Copy

Subject: MINUTES OF THE COMMITTEE MEETING CONSTITUTED UNDER THE CHAIRMANSHIP OF ADDITIONAL CHIEF SECRETARY, P&D DEPARTMENT.

In order to discuss the issues pertaining to the BSc/B.Tech Engineers, meeting of the Committee constituted under the chairmanship of Additional Chief Secretary was convened on 21.12.2021 at 1430 hrs. After welcoming remarks the chair asked the representative of Establishment Department to brief the committee regarding background of the case.

2. Representative of Establishment Department informed that a joint application was previously submitted to Chief Secretary Khyber Pakhtunkhwa by B.Tech(Hons) degree holders and Diploma holder SDOs of Irrigation Department for promotion to the next higher grade. Irrigation Department was asked to place the case before Standing Service Rule Committee (SSRC). Standing Service Rule Committee in its meeting held on 29.04.2021, recommended 12% quota for B.Tech (Hons) and 8% for Diploma holder for promotion to the next higher grade/post. In the meanwhile before implementation of the recommendations of the Standing Service Rules Committee, Irrigation Department submitted another Note for Chief Secretary for constituting separate committee to review decision of SSRC meeting held on 29.04.2021. Whereupon the Administrative Department was asked that under Rule-3(2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, it is the mandate of the Irrigation Department to dispose the matter in light of the existing Service Rules. Subsequently, recommendations of the SSRC regarding amendment in the Service Rules of Irrigation Department vetted by Law Department get approved from the Competent Authority. Irrigation Department has notified the service rules as per laid down procedure.

3. Representative of Establishment Department further informed that as far as various Courts Judgments passed with regard to BSc/B.Tech Engineers are concerned, the latest Judgment of the Supreme Court was passed on 24.04.2018 in C.P.No.78-K of 2015 Maula Bux Shaikh VS Chief Minister Government of Sindh and others. Operative part of the Judgment is reproduced as under:-

"The net result of above discussion is that this petition falls. It is dismissed and leave refused, however with note of caution that government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as a register engineer or professional engineer under the PEC Act."

4. He further informed that in order to resolve identical issue, PHE Department in its recent meeting of SSRC has also reserved promotion quota in BPS-18 for B.Tech and Diploma holders Engineers in consultation with all stakeholders.

Attested to be true
Copy

5. Representative of Law Department informed that the matter is subjudice in the Khyber Pakhtunkhwa Service Tribunal and parawise comments have already been submitted to the Tribunal after getting signatures of respondents i.e. Chief Secretary, Secretaries Establishment, Law, Irrigation and Finance Departments.

6. However, the issues were discussed in light of Khyber Pakhtunkhwa Civil Servants Act, 1973, APT Rules, 1989 with special reference to SSRC. Representative of Establishment Department pointed out that terms and conditions of service of civil servants are regulated under Khyber Pakhtunkhwa Civil Servants Act, 1973. Consequently, Pakistan Engineering Council Act, 1976 is not applicable in case of civil servants. Moreover the Supreme Court of Pakistan in Suo Moto Review Petition No. 52/1993 Fida Hussain vs Secretary Kashmir Affairs and Northern Affairs Division Islamabad decided on 5th June 1995 had held that "it is the domain of the government concerned to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one Grade to another higher Grade and whereas it is the domain of the Pakistan Engineering Council to decide, as to whether a particular academic qualification can be equated with another academic qualification, but it has no power to say that the civil servants/employees holding particular academic qualifications cannot be promoted from a particular Grade to a higher Grade. The main object of the Act is to regulate the working of professional engineers and consulting engineers and not to regulate the qualifications or the working of the engineers in the government or semi-government departments".

7. After threadbare discussion it was decided that necessary documents may be obtained from both the associations of Engineers so that the same could be further discussed in forthcoming meeting of the Committee.

.....
~~Attested to be true~~
~~COPY~~

**COURT MATTER
MOST IMMEDIATE**



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

No. SO(LI-I)E&AD/2-5656/2021
Dated: Peshawar, the 30.03.2022

To

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

Subject:


W.P NO. 2707-P/2021 – SHAUKAT ULLAH SHAH & OTHERS 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 Judgment dated 24.03.2022 passed by the Hon'ble Peshawar High Court, Peshawar with the request to provide the requisite documents/ working paper etc to the said Committee for consideration/ finalization of the case within the stipulated period of one month as desired/ directed by the Hon'ble Court, please.

Yours faithfully,

Encl: As above.


Section Officer (Litigation-I)

Endst: of even No. & Date.

Copy forwarded for information and necessary action to:-

1. Additional Chief Secretary, P&D Department, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
4. Secretary to Govt. of Khyber Pakhtunkhwa Law Department.
5. Deputy Secretary (Regulation-III), Regulation Wing, Establishment Department.
6. PS to Special Secretary (Judicial), Establishment Department.
7. PA to Additional Secretary (Judicial), Establishment Department.
8. PA to Deputy Secretary (Judicial), Establishment Department.
9. Master File.


Section Officer (Litigation-I)

*Attested to be true
Copy*

42

REMINDER-II

URGENT MATTER
JUST IMMEDIATE



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(JUDICIAL WING)

No. SO(Lit-I)E&AD/2-5656/2021
Dated: Peshawar, the 13.05.2022

To
The Special Secretary (Regulation),
Regulation Wing Establishment Department


Attention: Deputy Secretary (Regulation-III)

Subject: W.P NO. 2707-P/2021 - SHAUKAT ULLAH SHAH & OTHERS VS GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS.

Dear Sir,

I am directed to refer to this Wing's letter of even number dated 30.03.2022 followed by subsequent reminders of even number dated 19.04.2022 & 26.04.2022 on the subject noted above and to state that the steps taken or progress made towards implementation of the said Judgment so far may kindly be intimated, please.

Yours faithfully,


Section Officer (Litigation-I)

Endst: of even No. & Date.

Copy forwarded for information and necessary action to:-

1. Additional Chief Secretary, P&D Department, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
4. Secretary to Govt. of Khyber Pakhtunkhwa Law Department.
5. Secretary to Govt. of Khyber Pakhtunkhwa C&W Department.
6. PS to Special Secretary (Judicial), Establishment Department.
7. PS to Special Secretary (Regulation), Establishment Department.

SO(Lit-1)
D. Address

Attested to be true
Copy

Scanned with CamScanner

43

Amir
D

Judgment Sheet
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT.

W.P.No.2707-P/2021

Shaukat Ullah Shah and another
Versus
Govt: of KPK through Chief Secretary and others.



Date of hearing 24.03.2022

Mr. Abdur Rauf Rohilla, advocate for petitioners.
M/S Muhammad Sohail, AAG and Qazi Jawad Ehsanullah,
advocate for respondents.

JUDGEMENT

IJAZ ANWAR, J.- By this single Judgement, we propose to decide this as well as the connected Writ Petition No.1539-P/2021 "Niamat Gul and others Vs Govt: of KPK through Chief Secretary and others" as both these petitions have been filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 involving similar controversy. The following prayer has been made in the instant writ petition.

ATTESTED
EXAMINER
Peshawar High Court

Attested to be true
Copy

"On acceptance of this writ petition:

A. Direct Respondent No.4
(Secretary
Communication & Works
Department, Government
of Khyber Pakhtunkhwa
being the Chairman of
SSRC to convene SSRC
meeting at the earliest in
accordance with law

B. Grant any other relief that
this honourable Court
deems fit and appropriate
in the facts and
circumstances of the
case."

2. In essence, petitioners holding
B.Tech (Hons) Degree and serving the
respondent department as Sub Divisional
Officers (BPS-17) seek issuance of direction to
the respondents for reservation of 20 % quota for
promotion of B.Tech (Hons) Degree holder
SDOs (BPS-17) to the post of XEN BPS-18.

3. Comments were called from the
respondents which were accordingly submitted

attested to be true
Copy

ATTESTED
EXAMINER
Peshawar High Court

43

wherein they have opposed the issuance of the desired writ.

4. Arguments of counsel for the parties heard and record perused.

5. The main emphasis of the learned counsel for petitioners is that earlier the respondents have initiated process for amendment in the recruitment rules for providing specific quota to the B.Tech Degree Holders, however, no progress is made so far and his only prayer is that the Standing Service Rules Committee shall convene its meeting to decide this issue once for all.

6. It is pertinent to mention here that on an earlier date, the learned AAG had produced a Notification dated 07.9.2021 whereby a Committee was constituted by the Provincial Government in order to address the issue pertaining to the B.Ss/B.Tech Engineering

Attested to be true
Copy

ATTESTED
EXAMINER
Punjab High Court

46

Degree Holders and their respective promotion quota. This Court vide order dated 18.11.2021 directed the learned AAG to provide the outcome of the meeting of the said Committee.

7. Today, learned AAG produced the relevant minutes of the meeting wherein this issue has been discussed with detail, however, it was decided that certain record be obtained from the associations of both the categories so that the same could be further discussed in the forthcoming meeting of the Committee.

8. Learned AAG as well as learned counsel for the added respondents have objected on the maintainability of this writ petition on the ground the issue in hand relates to the terms and conditions of service and as such, this issue can only be adjudicated by the Provincial Service Tribunal. We are in complete agreement with the learned AAG and learned counsel representing

24

Attested to be true
copy

ATTESTED
EXAMINER
Peshawar High Court

47

5

the respondents to the effect that where the matter relates to the terms and conditions of service of a civil servant, the Service Tribunal has the exclusive jurisdiction and the jurisdiction of this Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, however, in the instant matter, petitioners have merely sought direction of this Court for expediting the matter pending with the Standing Service Rules Committee, because presently the matter in hand is premature particularly for the purpose of filing appeal before the Service Tribunal.

9. We have noted that vide Notification dated 07.9.2021, the Chief Secretary constituted a Committee with certain TORs. It being relevant is reproduced below:

"TORs of the Committee

- To consider various aspects of the issue in the prevailing

~~Attested to be true
Copy~~

~~ATTESTED~~
EXAMINER
Peshawar High Court

48

circumstances of B.Sc/B.Tech Engineers.

- To look into the various Courts judgements passed with regard to B.Sc/B.Tech Engineers as per merits of the case.
- To consider the issue in the light of available Service Rules.
- To consider any other issue pertaining to the subject matter.
- The committee shall finalize its recommendations with viable proposals for perusal of the competent authority within 30 days."

10. Pursuant to the notification above referred, the meeting was convened on 21.12.2021 and this issue was discussed at considerable length, however, for certain clarification, this matter was further to be deliberated in the forthcoming meeting of the Committee.

11. We, therefore, direct the Committee so constituted vide Notification dated 07.9.2021 to abide by the said notification because one of its TORs was "The Committee shall finalize its recommendations with viable proposals for

Master to be true Copy

ATTESTED
EXAMINER
Pashawar High Court

49

perusal of the competent authority within 30 days.", albeit despite lapse of about 8 months, the matter has not yet been finalized. Accordingly, the Committee is directed to finalize its recommendations within 60 days positively.

12. This and the connected Writ Petition No.2707-P/2021 are disposed of in the above manner.



Judge



Judge

Announced on;
Dated. 24.03.2022

D.B. Hon'ble Mr. Justice (Juz Anwar and Hon'ble Mr. Justice Syed Muhammad Atique Ghani

No. 47222
 Date of Presentation of Application 23/8/2022
 No of Pages 167
 Copying fee 67/-
 Date of Preparation of Copy 23/8/2022
 Date of Delivery of Copy 23/8/2022
 Received By [Signature]

DECLARED TO BE TRUE COPY

EXAMINER
General High Court, Faisalabad
District Court, District Faisalabad

23 AUG 2022

Attested to be true
Copy

51

ANNEX E-I

IN THE COURT OF MR. MUHAMMAD ZAFAR
SPECIAL JUDGE, ANTI-CORRUPTION,
SOUTHERN DISTRICTS CAMP COURT KOHAT

BBA Petition No. 108 of 2022
Shoukat Ullah Vs. State

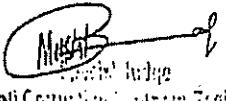
BBA Petition No. 110 of 2022
Raj Muhammad Vs. State

BBA Petition No. 111 of 2022
Ibad Ullah Vs. State


BBA Petition No. 112 of 2022
Malik Feroz Khan Vs. State

Order # 05
17.02.2023

certified to be
a true copy


Special Judge
Anti Corruption Southern Region
Camp Court Kohat

1. Sr.PP for the State present. Accused/petitioners Shaukat Ullah s/o Syed Yaqoob the then XEN who has filed BBA No. 108 of 2022, Raj Muhammad s/o Chamba Gul the then SE who has filed BBA No. 110 of 2022, Ibad Ullah s/o Muhammad Kareem the then SDO who has filed BBA No. 111 of 2022, and Malik Ferooz Khan s/o Hassan Khan the Government Contractor who has filed BBA No. 112 of 2022 are seeking the confirmation of their bail before arrest on the basis of the applications moved by them referred above in case FIR No. 01 Dated: 28.11.2022 u/s 409-420-468 PPC / 5(2) PC Act pertaining to Police Station Anti-Corruption Hangu. As all the BBA petitions are the of shoots of one and the same FIR therefore they have been taken together for


Special Judge
Anti Corruption Southern Region
Camp Court Kohat

~~attested to be true~~
Copy

S2

by the accused/petitioners as they were in gloves with one another. And booked the accused/petitioners mentioned above vide FIR bearing No.01 dated 28.11.2022 u/s 409-420-468 PPC r/w 5(2) of the PC Act PPC.

5. During the course of the arguments the counsel of the accused/petitioners are of the view that the prima facie tentative assessment of the record suggest that the case on hand needs further probe and inquiry, whereas on the other hand the nomination of the present accused/petitioners on the basis of malafide, ulterior motive and undue harassment could also not be ruled out, and is therefore a fit case for the confirmation of bail.

certified to be a true copy

Muhammad
Special Judge
Anti Corruption Southern Region
Camp Court Kohat

6. In support of arguments the counsels of the accused/petitioners are of the view that there is a long standing delay between the date and time of occurrence, the date of report and the date of the chalking out the FIR. Because as per the contents of the FIR the date and time of occurrence has not been given only the year 2015-16 has been shown, whereas the date of report has shown to be 22.07.2019 and the date of FIR

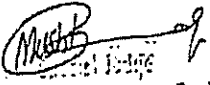
[Signature]
Special Judge
Anti Corruption Southern Region
Camp Court Kohat

28.11.2022 regarding these long standing delay there is no plausible explanation available on the record, making the case to be a case of further inquiry.


attested to be true
Copy

It has also been argued that the perusal of the record also shows that the proceedings in the instant case has been initiated on the basis of an anonymous application shown to be given by the inhabitants/residents of village Ghozgarh district Orakzai. There is no signature/thumb impressions of anyone to show that who own this application coupled with the fact that there is no statement of any inhabitant recorded. As such the same is an anonymous application and anonymous applications have got no legal standings.

certified to be
a true copy


Special Judge
Anti Corruption Southern Region
Cantonment Kohat

7. It has further been pointed out during the course of arguments that the record shows that a writ petition bearing No.2707-P of 2021 was filed in the Honorable Peshawar High Court, Peshawar and was disposed of vide order of the Honorable Court dated 24.03.2022, thereafter, as COC bearing No.350 of 2022 in writ petition No.2707-P of 2021 was also filed in the Honorable Peshawar High Court, Peshawar and that the present FIR infact in nothing but the counter blast of the said writ petition and COC which again creates doubts on the Prosecution side to the extent that the possibility could not be ruled out that the present accused/petitioners have malafidely been involved in the instant case.


Special Judge
Anti Corruption Southern Region
Cantonment Kohat


8. The counsel of the accused/petitioners are of the view also that it is the alleged version of the Prosecution that the

certified to be true
Copy

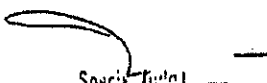
54

accused/petitioners were in gloves with one another and by doing so they given loss by the government exchequer, this aspect of the case will also be seen during the trial stage that whether present accused/petitioners were really in gloves with one another and have really given loss to the government exchequer or otherwise. Similarly the applicability of 409 PPC will also been seen during the trial stage after recording the evidence. Whereas the rest section of law leveled against the accused/petitioners does not carry punishments falling within the prohibitory clause and the grant of bail in such like cases is a rule and refusal is an exception as laid down through the judgments of the Superior Courts. The counsels are of the view also that these aspects of the case again make the case in hand to be a case of further probe and inquiry.

certified to be a true copy


 Special Judge
 Anti Corruption Southern Region
 Camp Court Kohat

The counsels further argued that the Prosecution is relying on the technical report prepared by the Technical Officer dated 01.11.2022. But the validity of the same technical report will also be seen during the trial stage to the extent that whether the technical report of the Technical Officer is based on scientific analysis or otherwise, which again creates a reasonable doubts at this stage. They are further of the view that the investigation of the instant case has already been completed, the accused/petitioners are no more required to the Prosecution, the


 Special Judge
 Anti Corruption Southern Region
 Camp Court Kohat

certified to be true copy

SS

accused/petitioners have got no previous criminal history. As such the surroundings and the attending circumstances of the case suggest that it is a fit case for the confirmation of bail and requested for the acceptance of their applications.

9. Whereas on the other hand learned Sr.PP for the state is of the view the prima facie tentative assessment of the record suggest that there exist a case of embezzlement against the accused/petitioners. Because the accused/petitioners being government officers/officials of C&W department joined hands with the government contractor have made payments to the contractor through MBs, whereas the work of the contract was not done properly according to the specification of the tender/contract. As such the government officers/officials have mis used their powers and have given loss to the government exchequer to the tune of 163,77,491/- rupees. In addition to it has also been argued that the accused/petitioners have directly been charged by name in the FIR the inquiry report and the technical report available on the record also prima facially supports the version of the Prosecution. The section of law section 409 PPC carries punishment falling within the prohibitory clause. As such there exist a case against the accused/petitioners, so far the malafide, ulterior motive and undue harassment which are important and essential ingredients

Article to be a true copy

Mishra
Judge
Criminal & Sessions
Court, Noida

[Signature]
Judge
Criminal & Sessions
Court, Noida

Attested to be true
Copy

30

required for BBA are concerned, regarding these noted elements nothing have been brought on the record by the counsel of the accused/petitioners. While winding up his arguments the Sr.PP for the state is of the view that the accused/petitioners in the given circumstances are not entitled for the extra ordinary concession of bail at this stage and requested that their applications may please not be considered.

attested to be a true copy

MUSTAF
Magistrate
Court of Sessions

10. After hearing the arguments and after making the prima facie tentative assessment of the record for the reasons given below this Court has come to the conclusion that the counsels of the accused/petitioners are succeeded in making the case of accused/petitioners to be a case of further inquiry of one hand, whereas on the other hand their nomination on the basis of malafidy and ulterior motive could also not be ruled out. Thus the applications of the accused/petitioners are accepted on the already existing bail bonds furnished by them.

REASONS:

The reasons upon which this Court gives opinion are as under:

Judge
4th Correctional Southern Region
Court of Sessions

- i. There is a long standing delay between the date and time of occurrence, the date of report and the date of the chalking out the FIR. Because as per the contents of the FIR the date and time of occurrence has not been given only the year 2015-16 has been shown.

attested to be true
Copy

57

whereas the date of report has shown to be 22.07.2019 and the date of FIR 28.11.2022 regarding these long standing delay there is no plausible explanation available on the record, making the case to be a case of further inquiry.

ii. The record also shows that the proceedings in the instant case have been initiated on the basis of an anonymous application shown to be given by the inhabitants/residents of village Ghozgarh district Orakzai, because there is no signature/thumb impressions of anyone to show that who own this application coupled with the fact that there is no statement of any inhabitant recorded. As such the same is an anonymous application making again the case to be case of further inquiry.

iii. The record shows that a writ petition bearing No.2707-P of 2021 was filed in the Honorable Peshawar High Court Peshawar and was disposed on 24.03.2022, A COC bearing No.350 of 2022 in writ petition No. 2707-P of 2021 was also moved in the Honorable Peshawar High Court Peshawar. The possibility could also not be ruled out that the FIR in hand is the counter blast of the writ petition and COC.

certified to be
a true copy

Muhammad B...
[Signature]

[Signature]
[Signature]

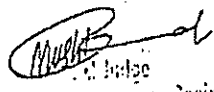
~~certified to be true
copy~~

58

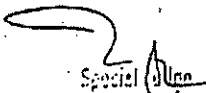
This aspect again makes the case a doubtful one and of further inquiry.

iv. It is the version of the Prosecution that the accused/petitioners in connivance with one another and by joining hands have given loss to the government exchequer. It will be seen during the trial stage that whether really the accused were in gloves with one another and intends to give loss to the government exchequer, coupled with the fact that the applicability of 409 PPC to the extent of the accused/petitioners will also be seen during the trial stage and could properly be answered after recording the evidence. Excluding the 409 PPC the rest section of law leveled against the accused does not carry punishment falling within the prohibitory clause and the grant of bail in such like cases is a rule and refusal is an exceptional.

certified to be a true copy


 Judge
 Anti Corruption Southern Region
 Camp Court Khatol

v. The Prosecution is relying upon the technical report prepared by the Technical Officer and on the basis of which the present accused/petitioners have been held responsible. The validity of the technical report will also be seen during the trial stage to the extent that


 Special Officer
 Anti Corruption Southern Region
 Camp Court Khatol


certified to be true Copy

59

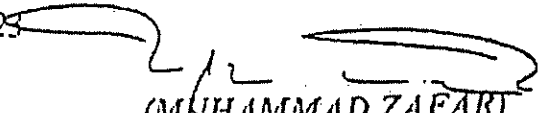
whether the technical report is based on scientific analysis or otherwise.

vi. The investigation of the instant case has already been completed accused/petitioners are no more required to the Prosecution coupled with the fact that there is also no previous criminal history against the accused/petitioners.

11. As such with these observations and findings the BBA of the accused/petitioners are hereby confirmed and disposed of according petitions be consigned to the record room after compilation and completion and record of the case be sent to the quarters concerned immediately.


Special Judge, Anti-Corruption Southern Region
Camp Court Kohat.

Announced:
17th February, 2023
At Kohat.


(MUHAMMAD ZAFAR)
Special Judge, Anti-Corruption
Southern Region KPK, Camp Court at
Kohat.



Attested to be true
Copy



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMIN. DEPARTMENT
(REGULATION WING)

No. SOR-V(E&AD)/7-1/Irrig;
Dated 10th June, 2022.

To

1. The Principal Secretary to Chief Minister,
Khyber Pakhtunkhwa,
2. The Secretaries to Govt. of Khyber Pakhtunkhwa,
 - i. Communication & Works Department.
 - ii. Planning & Development Department.
 - iii. Law, Parliamentary Affairs & Human Rights Department.
 - iv. Irrigation Department.
 - v. Public Health Engineering Department.
3. The Advocate General, Khyber Pakhtunkhwa.

Subject: MINUTES OF THE MEETING OF THE COMMITTEE CONSTITUTED
UNDER THE CHAIRMANSHIP OF ADDITIONAL CHIEF
SECRETARY, P&D DEPARTMENT KHYBER PAKHTUNKHWA
HELD ON 20-04-2022.

Dear Sir,

I am directed to refer to the subject noted above and to forward herewith a copy of minutes of the meeting held on 20-04-2022 under the chairmanship of Additional Chief Secretary, P&D Department, Khyber Pakhtunkhwa for further necessary action, please.

Yours faithfully,

(Sultan Wazir Khan)
SECTION OFFICER (REG-V)

Enclosed As Above.

Ends: of even No. & Date.

Copy forwarded alongwith copy of the said minutes to:-

1. The Additional Secretary (Judicial), Establishment Department, with reference to writ petition No. 2707-P/2021 vide letters No. SO(Lit-I)E&AD/2-5656/2021 dated 30-03-2022 and No. SO(Lit-I)E&AD/2-5656/2021 dated 17-05-2022 for further necessary action.
2. The Assistant Law Officer (Lit), Law Department w/r to his letter No. SO(Lit)/LD/Misc/2022/Shoukatullah & others dated 04-04-2022.
3. PS to Additional Chief Secretary, P&D Department, Khyber Pakhtunkhwa.
4. PS to Secretary Establishment Department, Khyber Pakhtunkhwa.
5. PA to Additional Secretary (R-II), Establishment Department.
6. PA to Deputy Secretary (Reg-III), Establishment Department.

SECTION OFFICER (REG-V)

tested to be true
Copy

61

Subject: MINUTES OF THE COMMITTEE MEETING CONSTITUTED UNDER THE CHAIRMANSHIP OF ADDITIONAL CHIEF SECRETARY, P&D DEPARTMENT.

In order to discuss the issues pertaining to the BSc/B.Tech Engineers second meeting of the Committee was held on 20.04.2022 at 1000 hrs under the chairmanship of Additional Chief Secretary. List of participants is attached.

2. At the outset, the Chair directed the representative of P&D Department to brief/update the meeting. Representative of P&D informed the meeting that the issues were discussed in the previous meeting as per TORs of the Committee and it was decided that necessary documents may be obtained from both the associations of Engineers. The same have been obtained and shared with the P&D Department by Establishment Department. Representative of Establishment Department may therefore, brief the meeting regarding stance of both the Associations of Engineers in support of their demand.

3. Representative of Establishment Department informed the meeting that that B.E/BSc Degree holder Engineers are relying on Pakistan Engineering Council Act, 1976 and operative part of the Supreme Court Judgment dated 24.04.2018 passed in C.P No.78-K of 2015 Maula Bux Shaikh VS Chief Minister Government of Sindh and others which stipulates that *"the net result of above discussion is that this petition fails. It is dismissed and leave refused, however, with note of caution that government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as a register engineer or professional engineer under the PEC Act."* While stance of the B.Tech (Hons) and Diploma Holders Engineers is that the notified service rules may be implemented by considering their promotion cases under the ibid rules.

4. Highlighting Maula Bux case, representative of Establishment Department informed the forum that as per the Supreme Court of Pakistan Judgment the petitioner

tested to be true
Copy

62

(Maula Bux) was B.Sc Engineer appointed as Sub Engineer in the year 1985 in Works and Service Department, Government of Sindh Karachi and subsequently promoted to the post of Assistant Engineer (BS-17) in the year 1997. Plea of the petitioner was that he was a qualified Engineer holding degree of Bachelor of Engineering and his promotion to BS-18 was affected due to 13% and 07% quotas reserved to B.Tech (Hons) Degree holders and Diploma holders Assistant Engineers respectively for promotion to the post of Executive Engineers BS-18. Moreover, Para-16 of the ibid Judgment stipulates that it is the domain of the government concerned to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one Grade to another higher Grade and whereas it is the domain of the Pakistan Engineering Council to decide, as to whether a particular academic qualification can be equated with another academic qualification, but it has no power to say that the civil servants/employees holding particular academic qualifications cannot be promoted from a particular Grade to a higher Grade. The main object of the Act is to regulate the working of professional engineers and consulting engineers and not to regulate the qualifications or the working of the engineers in the government or semi-government departments.

5. Representative of Establishment Department further informed that terms and conditions of service of civil servants are managed and regulated under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Rule-3(2) of the ibid rules provides that the method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the Department concerned in consultation with the Establishment and Finance Departments. Service Rules are framed/amended after convening meeting of the SSRC presently centralized in the Establishment Department. He pointed out that Irrigation and Public Health Engineering Departments have provided career progression/promotion chances to the B.Tech (Hons) Degree holders and Diploma holders by amending their relevant service rules.

6. During discussion it was noted that as per existing service rules of C&W Department the requisite qualification for the post SDO/Assistant Engineer (BS-17) is

Witnessed to be true
Copy

62

Degree in B.E/BSc Engineering (Civil/Mechanical/Electrical) from a recognized University and the post is to be filled as per following method of recruitment:-

- (i) 65% by initial recruitment.
- (ii) 16.50 % from amongst the Sub Engineers who hold a diploma of (Civil Mechanical or Electrical) and have passed departmental professional examination with 10 years service as such.
- (iii) 5% by promotion on the basis of seniority-cum-fitness from amongst the Sub Engineers who possess Degree of B.E or BSc Engineering (Civil Mechanical or Electrical) at the time of their joining service and have passed Departmental Professional Examination with 03 years service as such.
- (iv) 3.5% by promotion on the basis of seniority-cum-fitness from amongst the Sub Engineers who acquired Degree of B.E or BSc Engineering (Civil Mechanical or Electrical) during service and have passed Departmental Professional Examination with 03 years service as such.
- (v) 10% by promotion on the basis of seniority-cum-fitness, from amongst the Sub Engineers having Degree of B.Tech (Hons) and have passed Departmental Professional Examination with 05 years service as such.

7. It is worth mentioning that career progression for promotion to the Diploma Holder Engineers and B.Tech (Hons) Degree Holders Engineers has already been agreed/provided in BS-17, while it is being refused for their further promotion to BS-18 irrespective of the fact that a joint seniority list of Assistant Engineers (BS-17) is being maintained for the purpose of further career progression. Moreover, promotion chances to (BPS-18) for B.Tech (Hons) and Diploma Holder Assistant Engineers have been provided in Irrigation, PHE, LG&RD and Energy and Power Departments.

8. After threadbare discussion in light of Supreme Court Judgment referred to above, the Khyber Pakhtunkhwa Civil Servants Act, 1973, APT Rules, 1989 and the Peshawar High Court Judgment dated 24.03.2022 regarding convening of SSRC meeting, it was unanimously recommended that C&W Department may review its existing service rules by providing opportunities/chances of promotion to the B.Tech (Hons) degree holders and Diploma holders Assistant Engineers on the analogy of other technical departments i.e Irrigation, E&P and PHE Departments.

tested to be true
Copy

**COURT MATTER
MOST IMMEDIATE**



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

No. SO(LI-I)E&AD/2-5656/2021
Dated: Peshawar, the/6.06.2022

To

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

Subject:

**MINUTES OF THE MEETING OF THE COMMITTEE CONSTITUTED
UNDER THE CHAIRMANSHIP OF ADDITIONAL CHIEF
SECRETARY, P&D DEPARTMENT KHYBER PAKHTUNKHWA
HELD ON 20.04.2022 IN W.P NO. 2707-P/2021 - SHAUKAT ULLAH
SHAH & OTHERS 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. SOR-V(E&AD)/7-1/Irrig: dated 10.06.2022 alongwith Minutes of the meeting of the subject meeting held on 20.04.2022 received from Section Officer (Regulation-V) of this Department for information and further necessary action, please.

Yours faithfully,

Encl: As above.

Endst: of even No. & Date.

Copy forwarded for information and necessary action to:-

1. Section Officer (Reg-V) Establishment Department.
2. PS to Special Secretary (Judicial), Establishment Department.
3. PS to Additional Secretary (Judicial), Establishment Department.
4. PA to Deputy Secretary (Judicial), Establishment Department.
5. Master File.

Section Officer (Litigation-I)

Section Officer (Litigation-I)

Attested to be true
Copy

Copy

GOVERNMENT OF KHYBER PAKHTUNKHWA
 COMMUNICATIONS WORKS DEPARTMENT
 NO. 1806/G.W.P./12/2020, D.P.C.
 Dated: Islamabad, the 27th June, 2022.

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

Subject: MEMBERS OF THE MERIT LIST OF THE CONSULTANT COMMITTEE UNDER THE CHAIRMANSHIP OF ADDITIONAL CHIEF SECRETARY, P.W. DEPARTMENT, KHYBER PAKHTUNKHWA HELD ON 23/06/2022.

Dear Sir,
 I am directed to refer the Government of Khyber Pakhtunkhwa Establishment, C. Adm. Department (Regulation Wing) (Order No. SDR.V(CEAD)) / 11/10 dated 10.06.2022 on the subject noted above and to forward herewith a working paper regarding amendment in the existing Service Rules, 2010 of C&W Department complete in all respect for placing before SSRG for consideration as desired please.

Please examine the working paper with the attached working paper and forward the same to the concerned authority for their consideration.

Yours faithfully,
 [Signature]
 27-06-2022
 SECTION OFFICER (ESB)

Copy forwarded to the
 D.S.K. [Signature]

1. PS to Additional Chief Secretary, P&D Department, Peshawar.
 2. Section Officer (Reg. V) Establishment Department, Peshawar.
 3. Section Officer (Litigation) Establishment Department, Peshawar.
 4. Section Officer (Litigation) C&W Department, Peshawar.
 5. PS to Secretary, C&W Department, Peshawar.
 6. PA to Additional Secretary, C&W Department, Peshawar.
 7. PA to Deputy Secretary (Adm.) C&W Department, Peshawar.

S/S/R
 Asst. Secy
 S/S/R
 S/S/R

SECTION OFFICER (ESB)



Handwritten notes on the right margin.

66

Better Copy

309

Page No. //1

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE(C&WD/8-12/2020 SSRC
Dated Peshawar the June. 27, 2022

To
The Secretary,
Govt of Khyber Pakhtunkhwa,
Establishment Department, Peshawar.

Subject: MINUTES OF THE MEETING OF THE COMMITTEE
CONSTITUTED UNDER THE CHAIRMANSHIP OF ADDITIONAL
CHIEF SECRETARY P&D DEPARTMENT KHYBER
PAKHTUNKHWA HELD ON 20.04.2022.

Dear Sir,

I am directed to refer the Government of Khyber Pakhtunkhwa
Establishment & Admn Department (Regulation Wing) letter No SOR-V(E&AD)T-1/1mg
dated 10.06.2022 on the subject noted above and to forward herewith a working paper
regarding amendment in the existing Service Rules, 2010 of C&W Department complete in
all respect for placing before SSRC for consideration as desired please.

Yours Faithfully
Sd/-
27.06.2022
Section Officer (Estt)

Endst even No & date
Copy forwarded to the:

1. PS to Additional Chief Secretary P&D Department Peshawar.
2. Section Officer (REg-V) Establishment Department Peshawar.
3. Section Officer (Litigation-I) Establishment Department Peshawar.
4. Section Officer (Litigation) C&W Department Peshawar.
5. PS to Secretary C&W Department, Peshawar.
6. PA to Additional Secretary C&W Department Peshawar
7. PA to Deputy Secretary (Admn) C&W Department, Peshawar.

Sd/-
Section Officer / Estb

Attested to be true
Copy

Attested True Copy
[Signature]

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATIONS WORKS DEPARTMENT

WORKING PAPER FOR SSRC

SUBJECT: ALIGNMENT IN THE EXISTING SERVICE RULES OF C&W DEPARTMENT FOR PROMOTION OF ASSISTANT ENGINEERS (B.TECH) THROUGH ASSISTANT ENGINEERS (DIPLOMA) HOLDERS WITH THE PART OF EXECUTIVE ENGINEERS (B.TECH)

The B.Tech (Hons) holder, Assistant Engineer (BS-17) C&W (reg. writ petition No.2707-P/2021 & writ petition No.19311-P/2021) in Peshawar High Court Peshawar with the pray to create/reserve 20% quota in the posts of BS-10 & above for the employees having B.Tech (Hons) degree/degree as Sub-Divisional Officers/Assistant Engineers (BS-17) in respondent Department (C&W) Annex-I for the meanwhile a high level committee was constituted under the chairmanship of Additional Chief Secretary Khyber Pakhtunkhwa in light of Commission Authority (Chief Secretary) decision to be based the TORs mentioned in the referred Notification (Annex-II)

2. In the afore-referred writ petitions, Peshawar High Court Peshawar has passed the orders on 24.03.2022 (Annex-III) with the verdicts. The committee is directed to finalize its recommendations within 60 days positively.

3. Now in this regard, Establishment & Admin. Department has forwarded minutes of the meeting held on 20.03.2022 for further necessary action (Annex-IV). In the minutes, the committee has referred the operative part of the Supreme Court of Pakistan judgment (dated 24.01.2018) (Annex-V), which stipulates that "the net result of above discussion is that this petition fails. It is dismissed and leave refused, however, with note of caution that Government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institutions and his name is not registered as a register engineer or professional engineer under the PEC Act"

4. In the concluding para, the committee has mentioned that after thorough discussion, in light of Supreme Court Judgment, the Khyber Pakhtunkhwa Civil Servants Act, 1973, APT Rules, 1980, and the Peshawar High Court Judgment dated 24.03.2022 regarding convening of SSRC meeting, it was unanimously recommended that C&W Department may review its existing service rules by providing opportunity/chances of promotion to the B.Tech (Hons) Degree holders and Diploma Holders Assistant Engineers on the analogy of other technical departments (i.e. Irrigation, Energy & Power and PHE Departments) (Annex-VI)

Tested to be true
Copy

68

Better Copy

Page No. 2

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

WORKING PAPER FOR S.S.R.C

Subject: AMENDMENT IN THE EXISTING SERVICE RULES OF C&W DEPARTMENT FOR PROMOTION OF ASSISTANT ENGINEERS B-TECH (HONS)/ASSISTANT ENGINEERS DIPLOMA HOLDER (BS-17) TO THE POST OF EXECUTIVE ENGINEER (BPS-18).

The B-Tech (Hons) holder Assistant Engineer (BS-17) C&WD filed writ petition No. 2707-P/2021 & writ petition No. 1539-P/2021 in Peshawar High Court Peshawar with the pray to create / reserve 20% quota in the posts of BS-18 & above for the employees having B-tech (hons) degree serving as Sub Divisional Officers / Assistant Engineers (Bs-17) in respondent department (C&WD) Annex-I. In the meanwhile a high level committee was constituted under the chairmanship of Additional Chief Secretary Khyber Pakhtunkhwa in light of Competent Authority (Chief Secretary) directions to be based the TORs mentioned in the referred Notification (Annex-II).

2. In the afore-referred writ petitions, Peshawar High Court Peshawar has passed the orders on 24.03.2022 (Annex-III) with the verdicts. The committee is directed to finalize its recommendations within 80 days positively.
3. Now in this regard Establishment & Admn Department has forwarded minutes of the meeting held on 20.04.2022 for further necessary action (Annex-IV, in the minutes, the committee has referred the operative part of the Supreme Court of Pakistan judgment dated 24.04.2018 (Annex-V) which stipulated that "the net result of above discussion is that this petition fails. It is dismissed and leave refused, however, with note of caution that Government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institutions and this name is not registered as a register engineer or professional engineer under the PEC Act.
4. In the concluding para, the committee has mentioned that after thread bare discussion in light of Supreme Court Judgment, the Khyber Pakhtunkhwa Civil Servants Act, 1973 APT Rules 1989 and the Peshawar High Court judgment dated 24.03.2022 regarding convening of SSRC meeting, it was unanimously recommended that C&W Department may review its existing service rules by providing opportunity chances of promotion to the B-Tech (Hons) Degree holders and Diploma Holders Assistant Engineers on the analogy of other technical departments i.e. Irrigation Energy & Power and PHE Departments (Annex-VI).

Attested to be true
Copy

Attested True Copy
11/1

In this connection, C&W Department in view of the judgment of the Supreme Court of Pakistan dated 24.05.2010 for non-professional posts in C&W Department to consider the promotion of Assistant Engineers (BS-17) holding the B.Tech (Hons) and Diploma Holders (Tech) (BS-17) holding the B.Tech (Hons) and Diploma Holders (Tech) (BS-17) and one number post of the Senior Engineer (Survey) (BS-18) and one number post of the Senior Engineer (Survey) (BS-18) are available against which the promotion of the related cadres can be considered in line with the referred Supreme Court of Pakistan judgment. Moreover, as per the quota under the existing Service Rules of C&W Department, 2311 are posts of Assistant Engineers/SOs (BS-17) are filled up by way of promotion from among the Tech (Hons) Sub Engineers.

In order to implement the court decision as well as High Level Committee recommendations, C&W Department suggests the following two proposals for placing before SSRC committee for deliberation and decision:

Standing Service Rules Committee (SSRC) is requested to consider the amendment in the existing Service Rules of C&W Department, 2010 for promotion of Assistant Engineers (BS-17) holding the B.Tech (Hons) and Diploma Holders and non-professional posts in the department according to the judgment of Supreme Court of Pakistan and for this purpose a sub-committee may be constituted to analyze and differentiate the existing posts in C&W department (in BS-18, 19 & 20) into purely professional and non-professional posts and accordingly, submit proposal for amendment in promotion rules of BS-10 in C&W Department.

OR

Standing Service Rules Committee (SSRC) is requested to consider the amendment in the existing Service Rules of C&W Department, 2010 for promotion of Assistant Engineers (BS-17) holding the B.Tech (Hons) and Diploma Holders according to their existing strength to BS-10 on the analogy of other line Departments as recommended by the High Level Committee headed by Additional Chief Secretary.

Nehal Khan
 DEPUTY SECRETARY (ADMN)
 C&W DEPARTMENT

tested to be true
 Copy

70

Better Copy

313

Page No. 4

5. In this connection, C&W Department is the view. In light of operative part of Supreme Court of Pakistan judgment dated 24.05.2018 that non professional posts not exist in C&W Department to consider the promotion of Assistant Engineers (BS-17) holding the B-Tech-I (Hons) and Diploma Holders, except two (02 Nos post of Deputy Director Technical (BS-18) and one number post of Senior Engineer (Survey/ RMU) (BS-18) are available against which the promotion of the referred cadres can be considered under the referred Supreme Court of Pakistan judgment. Moreover, as per 10% quota under the existing service rules of C&W Department, 23 Nos posts of Assistant Engineers / SCOs (BS-17) are filled by way of promotion from amongst B-Tech (Hons) Sub Engineers.

6. In order to implement the court directions as well as High Level Committee recommendations. C&W Department suggest the following two proposals for placing before SSRC committee for deliberation and decision.

i. Standing Service Rules Committee SSRC is requested to consider the amendment in the existing Service Rules of C&W Department 2010 for promotion of Assistant Engineers (Bs-17) holding the B-Tech (hons) and Diploma Holders against non professional posts in the department according to the judgment of Supreme Court of Pakistan for this purpose a sub committee may be consisted to analyze and differentiate the existing posts in C&W Department in BS-18, 19 & 20 into purely professional and non professional posts and accordingly submit proposal for amendment in promotion rules of BS-18 in C&W Department.

OR

ii. Standing Service Rules Committee (SSRC) is requested to consider the amendment in the existing Service Rules of C&W Department, 2010 for promotion of Assistant Engineer (BS-17) holding the (B-Tech) and Diploma holders according to their existing strength to their existing strength to BS-18 on the analogy of other the Departments as recommended by the High Level Committee headed by Additional Chief Secretary.

Sd/-
Deputy Secretary (ADMN)
C&W Department

Attested True Copy

Attested to be true
Copy

71



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

No. SUPPOLICYPE&AD/2-09/2022
Dated Peshawar, the July 22, 2022

31/3

- The Secretaries to Government of Khyber Pakhtunkhwa,
1. Industries, Commerce & Technical Education Department.
 2. Communication & Works Department.
 3. Public Health Engineering Department.
 4. Home & Tribal Affairs Department.
 5. Science & Technology and Information Technology Department

Subject- MINUTES OF THE MEETING OF THE STANDING SERVICE RULES COMMITTEE HELD ON 01.06.2022

Dear Sir,

I am directed to refer to the subject and to state that a meeting of the Standing Service Rules Committee (SSRC) has been scheduled to be held on 29-07-2022 at 1100 hrs under the Chairmanship of Special Secretary (Regulation), Establishment Department in his office.

It is therefore, requested to kindly depute a well-versed officer alongwith with complete record to attend the said meeting on the above mentioned date, time and venue, please

Yours faithfully,


SABIR AMIN
SECTION OFFICER (POLICY)

ENDST: NO. & DATE EVEN:


Copy forwarded to:

1. Section Officers (Reg-I, III, V and VI) Establishment Department for necessary action.
2. PS to Secretary Establishment Department.
3. PS to Special Secretary (Regulation), Establishment Department.
4. PA to Additional Secretary (Regulation), Establishment Department.


SECTION OFFICER (POLICY)

Scanned with CamScanner

Attested to be true



ADVOCATE

72

Better Copy

315

Page No. 1

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

No. SO(POLICY&AD)/2-4/9/2022
Dated Peshawar, the July 22, 2022

- To
- The Secretariat of Government of Khyber Pakhtunkhwa.
1. Industries, Commerce & Technical Education Department.
 2. Communication & Works Department.
 3. Public Health Engineering Department.
 4. Home & Tribal Affairs Department.
 5. Science & Technology and Information Technology Department.

Subject: MINUTES OF THE MEETING OF THE STANDING SERVICE
RULES COMMITTEE HOLD ON 01.06.2022.

Dear Sir,

I am directed to refer to the subject and to state that a meeting of the Standing Service Rules Committee (SSRC) has been scheduled to be held on 29-07-2022 at 1100 Hr under the Chairmanship of Special Secretary (Regulation), Establishment Department in his office.

It is therefore, requested to kindly depute a well conversant officer alongwith with complete record to attend the said meeting on the above mentioned date, time and venue, please.

Yours Faithfully,
Sd/-
Sabir Amin
Section Officer (Policy)

Encls: No & Date Even:

Copy forwarded to:

1. Section Officers (REg-I, III, V and VI) Establishment Department for necessary action.
2. PS to Secretary Establishment Department.
3. PS to Special Secretary (Regulation, Establishment Department).
4. PA to Additional Secretary (Regulation), Establishment Department.

Sd/-
Section Officer (Policy)

*Attested to be true
Copy*

Attested True Copy



73

20

GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the August 19, 2022

NOTIFICATION:

No. SOE/C&WD/1-5/2017: In pursuance of sub-section (2) of section 13A of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act, No. XVIII of 1973), read with sub-section (3) thereof, Mr. Shaukat Ullah Shah Assistant Engineer (BS-17) O/O Chief Engineer (Centre) C&W Peshawar shall stand retired from Government Service with effect from 27.08.2022 on attaining sixtieth (60th) year of age, as his date of birth is 28.08.1962.


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 (Centre) C&W Peshawar
3. Officer concerned
4. PS to Secretary, C&W Peshawar
5. Office order File/Personal File

Attested to be true
Copied


SECTION OFFICER (Estb)

74

PS/Secy E&AD KP

Dir. No. 6467-14

File No.

Date. 15-8-22

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department Civil Secretariat,
Peshawat.

Subject: - PROMOTION OF MR. SHAUKATULLAH SHAH SDO (BPS-17) OF
C&W DEPARTMENT KHYBER PAKHTUNKHWA TO BPS-18 AS
EXECUTIVE ENGINEER, WHO IS RETIRING FROM GOVT.
SERVICE ON 20th AUGUST, 2022.

Yours Excellency,

It is very humbly and hopefully requested to your good self to consider my genuine request of promotion on humanitarian basis to save me from further torture. Detailed facts of my case are as follows: -

1. I joined my service in C&W Department as a Sub-Engineer in 1988 and after 25 years hard workmanship I improved my qualification and acquired B.Tech (Hons) Degree and on the basis of this Degree I got promotion to the post of SDO BPS-17 on 4th November 2016 vide Notification No.SOE/C&W/4-2/2016 (SDOs) (Annox-A).
2. After very efforts, a meeting of the Standing Service Rule Committee (SSRC) regarding amendment in the appointment and recruitment Rules, 2010 of C&W Department was scheduled to be held on 28.11.2017 vide Section Officer (Estt), C&W Department Khyber Pakhtunkhwa letter No.SOE/C&W/D/8-12/2017 dated 27.11.2017 (Annox-B), but it is very sadly stated that the said meeting was intentionally delayed and not convened till date.
3. When I was tired / badly failed and found no way, then I knocked the doors of Court and filed a Writ Petition No.2707-P/2021 in Peshawar High Court Peshawar and lastly decided by "D.B" in its judgment on 24.03.2022 with the following directions: -

- ✓ To consider various aspects of the issue in the prevailing circumstances of B.Sc/B.Tech Engineers.
- ✓ To look into the various Courts judgments passed with regard to B.Sc/B.Tech Engineers as per merits of the case.
- ✓ To consider the issue in the light of available Service Rules.
- ✓ To consider any other issue pertaining to the subject matter.
- ✓ The Committee shall finalize its recommendations with viable proposals for perusal of the competent authority within 30 days".

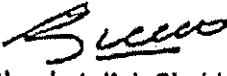
Albeit despite lapse of about 8 months, the matter has not yet been finalized. Accordingly the Committee is directed to finalize its recommendations within 60 days positively (Annox-C).

Attested to be true
Copy

75

4. In light of the above judgment, a High level Committee was constituted under the Chairmanship of Additional Chief Secretary P&D Department, Khyber Pakhtunkhwa wherein the issue was discussed in its meeting held on 20.04.2022, minutes issued vide Section Officer (Reg-V), Establishment & Admn: Department (Reg: Wing) letter No.SOR-V(E&AD)/7-1/Irrig: dated 10.06.2022 (Annex-D). After thorough discussion, the Committee unanimously recommended that C&W Department may review its existing service rules by providing opportunities/chances of promotion to the B.Tech (Hons) degree holders on the analogy of other technical Departments i.e. Irrigation, Energy & Power and PHE Departments. But after a lapse of about 60 days, no SSRC meeting has been convened due to unknown reasons.
5. It is worth to mention here that a letter for SSRC meeting to be held on 29.07.2022 was issued vide Section Officer (Policy), Establishment Department letter No.SO(POLICY)/E&AD/2-60/2022, dated 22.07.2022 (Annex-E) but it was postponed and rescheduled on 5th August, 2022 which was again postponed due to bad intentions and no clear cut date has been confirmed so far.
6. Now, a Provincial Selection Board (PSB) meeting has been scheduled in the 1st week of September, 2022 for which working papers of the officers who are at the verge of retirement and falling in the promotion zone are most importantly/on priority basis required to be submitted before the cut off date which is fixed as 20.08.2022, vide Section Officer (PSB), Establishment Deptt: letter No.SO(PSB)ED/1-25/2022/PSB, dated 11.08.2022 (Annex-F).
7. Sir, the undersigned is also at the verge of retirement (on 28.08.2022) (at least 2 weeks left) and falls in the promotion zone as my name is appearing at Serial No.2 of the seniority list of B.Tech (Hons) Degree holders and as such how is it possible to be consider me for promotion if initial criteria that is "SSRC" not yet finalized and my promotion is hanging since 2017.
8. Keeping in view the above circumstances, the undersigned is knocking the doors of your good self with the request that if SSRC is not possible at this stage, my case may kindly be considered on humanitarian ground for promotion simply "with the summary circulation". I shall pray for your long life and prosperity for this act of kindness please.

Dated:12/08/2022


(Shaukatullah Shah)
Sub Divisional Officer
B.Tech (Hons) Degree Holder
O/O Secretary C&W Deptt:
Khyber Pakhtunkhwa

~~Attention to be true~~
Copy



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(Establishment Section)

76

Dated Peshawar the 02nd April, 2024

NOTIFICATION:

No. SO(E)/IRR/4-3/PSB/Vol-IV: On the recommendations of Provincial Selection Board (PSB) in its meeting held on 18.03.2024, the following **Assistant Engineers/SDOs/Assistant Directors (BS-17, D.A.E)** are hereby appointed to the post of **Executive Engineers/Deputy Directors/Technical Officers (BS-18, D.A.E)**, in Irrigation Department, on acting charge basis, with immediate effect.

S#	Name of Officer	Present place of posting
1.	Mr. Farid Gul	Assistant Engineer, O/o the Chief Engineer (North)
2.	Mr. Fatehullah	XEN, Bannu Canal Irrigation Division, Bannu

2. Consequent upon their appointment as Executive Engineers/Deputy Directors/Technical Officers (BS-18) on acting charge basis, the officers mentioned at Sr. No. 02 is allowed to actualize his acting charge appointment against the already occupied post while the officer mentioned at Sr. No. 01 is allowed to actualize his acting charge appointment against the vacant post of Deputy Director, Ground Water, Merged Areas, Irrigation Department.

Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department

Endst. No. & date even.

Copy forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Engineers (South/North/Merged Areas) Irrigation Department.
3. The Director General, Small Dams, Peshawar.
4. The PSO to Chief Minister, Khyber Pakhtunkhwa.
5. The officers concerned.
6. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
7. PS to Secretary Establishment Department, Peshawar.
8. PS to Secretary Irrigation Department, Khyber Pakhtunkhwa.
9. The Assistant Director (Web Developer), Irrigation Department.
10. PA to Additional Secretary/Deputy Secretary (Admn), Irrigation Department.
11. Master file.
12. Personal file of the officers.

(Maqsood Khan)
Section Officer (Estt:)

CS CamScanner

Attested to be true
Copy



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT
(Establishment Section)

77

Dated Peshawar the 02nd April, 2024

NOTIFICATION:

No.SO(E)/IRR/4-3/PSB/Vol-IV: On the recommendations of Provincial Selection Board (PSB) in its meeting held on 07.03.2024, the following **Assistant Engineers/SDOs/Assistant Directors (BS-17, B.Tech)** are hereby promoted to the post of **Executive Engineers/Deputy Directors/Technical Officers (BS-18, B-Tech)**, in Irrigation Department, on regular basis, with immediate effect.

S#	Name of Officer	Existing Place of Posting
1.	Mr. Niaz Badshah	Executive Engineer, Kohat Irrigation Division, Kohat
2.	Mr. Saifullah	Executive Engineer, Peshawar Canal Irrigation Division, Peshawar
3.	Muhammad Younas	Technical Officer, O/o the Chief Engineer (North)
4.	Mr. Jahan Zeb	Deputy Director, PHLCE Project, Swabi
5.	Mr. Javed Ahmad	Deputy Director (Design), O/o Chief Engineer (North)

2. The officers on promotion will remain on probation for a period of one year in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Section-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfers) Rules, 1989, extendable for another year with the specific orders of appointing authority within two months of the expiry of the first year probation period as specified in Rule-15(2) of the rules ibid.

3. Consequent upon their promotion as Executive Engineers/Deputy Directors/Technical Officers (BS-18) on regular basis, the officers mentioned at Sr. No. **1,2,3 & 5** are allowed to actualize their promotion against the already occupied posts whereas posting/transfer for actualization of promotion of the officer mentioned at Sr. No. **4** will be issued later on.

Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department

Endst. No. & date even.

Copy forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Engineers (**South/North/Merged Areas**) Irrigation Department.
3. The Director General, Small Dams, Peshawar.
4. The PSO to Chief Minister, Khyber Pakhtunkhwa.
5. The officers concerned.
6. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
7. PS to Secretary Establishment Department, Peshawar.
8. The District Accounts Officer (Concerned).
9. PS to Secretary Irrigation Department, Khyber Pakhtunkhwa.
10. The Assistant Director (Web Developer), Irrigation Department.
11. PA to Additional Secretary/Deputy Secretary (Admn), Irrigation Department.
12. Master file.
13. Personal files of the officers.

(Maqsood Khan)
Section Officer (Estt:)

CS CamScanner

Attested to be true
Copy



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

78

Dated Peshawar the April 03, 2024

NOTIFICATION:

No.SOE/C&WD/4-5/2024: On the recommendations of Provincial Selection Board (PSB), the Competent Authority has been pleased to promote the following Assistant Engineers/SDOs (BS-17) of C&W Department to the post of Executive Engineers (BS-18) on regular basis, with immediate effect:

- | | |
|-----------------------------------|----------------------------|
| i. Engr. Zahoor Elahi Baig | Promotion on regular basis |
| ii. Engr. Hassan Jan | Promotion on regular basis |
| iii. Mr. Muhammad Ghazanfar Ullah | Promotion on regular basis |
| iv. Engr. Faizan Akbar | Promotion on regular basis |
| v. Engr. Muhammad Junaid | Promotion on regular basis |
| vi. Engr. Iftikhar Qayyum | Promotion on regular basis |
| vii. Engr. Nasir Iqbal | Promotion on regular basis |
| viii. Engr. Wasim Akbar | Promotion on regular basis |
| ix. Engr. Muhammad Ishaq | Promotion on regular basis |
| x. Engr. Khushdil Khan | Promotion on regular basis |
| xi. Engr. Abdullah | Promotion on regular basis |
| xii. Engr. Umair Ahmad Jan | Promotion on regular basis |
| xiii. Engr. Akbar Mehboob Khattak | Promotion on regular basis |
| xiv. Engr. Imran Khan | Promotion on regular basis |
| xv. Mr. Ali Rehman | Promotion on regular basis |

2. The above officers shall remain on probation for a period of one year in terms of Rule-15 of (Appointment, Promotion & Transfer) Rules, 1989, while the officers appearing at Sl.No. I, II, III & XV will be on probation till their retirements.

3. Consequent upon their promotion, the Competent Authority is further pleased to order the transfer/posting of the following officers of C&W Department to actualize their promotion against the posts as mentioned against each, with immediate effect, in the best public interest.

Sl. No.	Name of Officer & Designation	From	To	Remarks
1.	Engr. Zahoor Elahi Baig XEN (BS-18)	XEN (OPS) C&W Division Kohistan Upper	XEN C&W Division Kohistan Upper	---
2.	Engr. Hassan Jan XEN (BS-18)	Deputy Director (OPS) PKHA Peshawar	Senior Engineer (Survey/RMU) O/O CE (CDO) C&W Peshawar. After actualization his promotion to BS-18 reposted as Deputy Director PKHA Peshawar	----
3.	Mr. Muhammad Ghazanfar Ullah XEN (BS-18)	SDO O/O XEN (Mega Projects-II) C&W Peshawar	Design Engineer O/O CE (Center) C&W Peshawar	Vacant Post
4.	Engr. Faizan Akbar XEN (BS-18)	Deputy Director (OPS) PaRSA/USAID	Design Engineer O/O CE (South-I) C&W Peshawar. After actualization his promotion to BS-18 reposted as Deputy Director PaRSA / USAID	---
5.	Engr. Muhammad Junaid XEN (BS-18)	XEN (OPS) Building Division D.I. Khan	XEN Building Division D.I. Khan	---
6.	Engr. Iftikhar Qayyum XEN (BS-18)	XEN (OPS) Building Division Mansehra	XEN Building Division Mansehra	---

P.T.O

Attested to be true
Copy

7.	Engr. Nasir Iqbal XEN (BS-18)	Waiting for posting	XEN Highway Division Dir Lower to be vacated by Engr. Sami Ullah on his promotion to BS-19	
8.	Engr. Wasim Akbar XEN (BS-18)	XEN (OPS) C&W Division Kohistan Lower	XEN C&W Division Kohistan Lower	
9.	Engr. Muhammad Ishaq XEN (BS-18)	SDO O/O XEN Building Division-I Peshawar	Design Engineer O/O CE (Mega Projects) C&W Peshawar	Vacant post
10.	Engr. Khushdil Khan XEN (BS-18)	XEN (OPS) C&W Division Lakki Marwat	XEN C&W Division Lakki Marwat	---
11.	Engr. Abdullah XEN (BS-18)	Deputy Director (OPS) O/O Director Anti-Corruption Establishment Peshawar	Design Engineer O/O Chief Engineer (South-I) C&W Peshawar After actualization his promotion to BS-18 reposted as Deputy Director O/O Director Anti-Corruption Establishment Peshawar	---
12.	Engr. Umair Ahmad Jan XEN (BS-18)	Authorized to hold the charge of the post of XEN Highway Division Swabi	Design Engineer O/O Chief Engineer (Maintenance) C&W Peshawar and also authorized to continue holding the Additional Charge of the post of XEN Highway Division Swabi, in addition to his duty	Vacant Post
13.	Engr. Akbar Mehboob Khattak XEN (BS-18)	SDO O/O XEN Highway Division Mardan	XEN Building Division Mohmand	-do-
14.	Engr. Imran Khan XEN (BS-18)	SDO O/O XEN Highway Division Bajaur	XEN Highway Division Bajaur	-do-
15.	Mr. Ali Rehman XEN (BS-18)	Assistant Director O/O MD PKHA Peshawar	Executive Engineer O/O CE (East) C&W Abbottabad	-do-

79

**SECRETARY TO
Government of Khyber Pakhtunkhwa
Communication & Works Department**

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. All Chief Engineers C&W Department.
3. Managing Director PKHA Peshawar.
4. Superintending Engineers C&W Circle concerned.
5. Executive Engineers C&W Division concerned.
6. Executive Engineers Building/Highway Divisions concerned.
7. District Account Officers concerned.
8. Accounts Officers Tribal District concerned.
9. PS to Minister for C&W Department Khyber Pakhtunkhwa.
10. PS to Secretary, C&W Department Peshawar.
11. PA to Additional Secretary (Admn/Tech), C&W Department Peshawar.
12. PA to Deputy Secretary (Admn/Tech), C&W Department Peshawar.
13. Officers concerned.
14. Office order File/Personal File.
15. The Manager Govt. Printing Press, Khyber Pakhtunkhwa Peshawar.

D. am
03.04.2024
SECTION OFFICER (Estb)

Attested to be true
copy



Government of Khyber Pakhtunkhwa
Local Government, Elections & Rural
Development Department

80

Dated Peshawar, the 5th April, 2024/921

NOTIFICATION

No.SOE-II(LG)/2-355/Promotion/2024:- On the recommendations of Provincial Selection Board, in its meeting, held on 07th March, 2024, following Assistant Directors (Technical) / Assistant Engineers (BPS-17), Local Government and Rural Development Department are hereby promoted to the post of Deputy Director (Technical) / Assistant Engineer (Sr.) (BPS-18) in Local Government and Rural Development Department Khyber Pakhtunkhwa, on regular basis, with immediate effect:-

S. NO	NAME OF OFFICER	PRESENT POSTING
1.	Mr. Nahid Khan	Assistant Engineer (Sr.), (BPS-18 OPS), THQ Bajaur Khar.
2.	Mr. Uzair Ali	Deputy Director (Technical), (BPS-18 OPS), DG LG Peshawar.
3.	Muhammad Kamal	Assistant Engineer (Sr.), (BPS-18 OPS), THQ Jamrud District Khyber.
4.	Mr. Mehboob Ali	Assistant Engineer, (BPS-17), Tehsil Takht Bhai District Mardan.
5.	Muhammad Shakeel Ahmad	Assistant Engineer (Sr.), (BPS-18 OPS), Tank.
6.	Mr. Faheem Ul Jalal	Assistant Engineer (Sr.), (BPS-18 OPS), Tehsil HQ Lower Chitral.
7.	Mr. Asim	Assistant Engineer (Sr.), (BPS-18 OPS), THQ Timergara Dir Lower.
8.	Mr. Irfan Ullah	Assistant Engineer (Sr.), (BPS-18) OPS, Hangu.
9.	Mr. Rizwan Ullah	Assistant Engineer (Sr.), (BPS-18 OPS), THQ Karak.
10.	Mr. Umer Nawaz Khan .	Assistant Engineer (Sr.), (BPS-18 OPS), THQ Lower Orakzai.
11.	Syed Hassan Ahmad Tirmizi	Assistant Engineer (Sr.), (BPS-18 OPS), THQ Mansehra.
12.	Mr. Mushtaq Zeb	Assistant Engineer (Sr.), (BPS-18 OPS), THQ Nowshera.
13.	Muhammad Saad Khan	Assistant Engineer (Sr.), (BPS-18) OPS, Charsadda.
14.	Haji Bahadur	Assistant Engineer (Sr.), (BPS-18) OPS, Tehsil HQ Daggar, Buner.
15.	Mr. Aitizaz Arshad	Assistant Engineer (Sr.), (BPS-18 OPS), THQ Swabi.
16.	Mr. Sadiq Ali	Assistant Engineer, (BPS-17), Tehsil Lower Mohmand, District Mohmand
17.	Mr. Ijaz Ahmad	Assistant Director (Technical), (BPS-17), DG LG Peshawar.
18.	Ms. Huma Rahman	Assistant Director (Technical), (BPS-17), DG LG Peshawar.
19.	Mr. Arsalan Shoukat	Assistant Engineer (Sr.), (BPS-18) OPS, Abbottabad.
20.	Ms. Humna Hamid	Assistant Engineer, (BPS-17) on Deputation to National Transport Research Centre (NTRC); Ministry of Communication Islamabad.
21.	Ms. Fatima Kausar	Assistant Engineer (Sr.), (BPS-18 OPS), THQ Haripur.

CS CamScanner

Attested to be true
Co. 2

2. The officers, on promotion, will remain on probation for a period of one year, extendable for a further period of one year if desired by the Competent Authority, in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989.

3. The posting / transfer order of the above named officers will be issued later on.

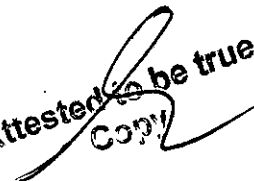
**CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA**

Endst. No. & Date Even

Copy forwarded to:-

1. The Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. The Director General, LG&RDD Khyber Pakhtunkhwa, Peshawar.
4. The Deputy Director (IT), LG&RDD Peshawar.
5. The District Accounts Officers, Concerned Districts.
6. The Manager, Government Printing Press, Peshawar.
7. The Officers concerned.
8. The PS to Secretary LG,E&RDD Peshawar.
9. Personal Files.
10. Master File.


**SECTION OFFICER
(ESTABLISHMENT-II)**


**Attested to be true
Copy**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 7917 / 2021

Engineer Imtiaz Khan, Deputy Director (PSU),
O/O-Small Dam directorate Irrigation Department,
Khyber Pakhtunkhwa, Peshawar.

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Irrigation Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Secretary Law & Parliamentary Affairs Department, Khyber Pakhtunkhwa, Peshawar.
- 5- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 6- The Chief Engineer (South) Irrigation Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED AGENDA ITEM NO.4 OF THE SSRC MINUTES DATED 29.4.2021 AND NOTIFICATION DATED 24.8.2021 WHEREBY UNJUSTIFIED 20% PROMOTION QUOTA IN BPS-18 (EXECUTIVE ENGINEER) TO B-TECH/DIPLOMA HOLDERS FOR WORKING AGAINST THE PROFESSIONAL ENGINEERING WORKS POSTS HAS BEEN CREATED BY THE RESPONDENTS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS


RESPECTFULLY SHEWETH:

FACTS:

Brief facts giving rise to the present writ petition is as

under:

- 1. That the appellant is the employee of respondent Department and is performing duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the service record/appointment order is attached as annexure **A.**
- 2. That the appellant is highly qualified Civil/Mechanical Engineer and registered with Pakistan Engineering Council and having command and experience over the services in respect of Professional Engineering Work. That under the existing rules of the respondent

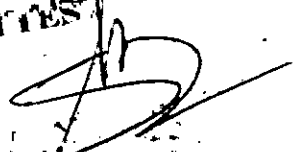
ATTACHED

Khyber Pakhtunkhwa
Service Tribunal

Department the appellant has better prospects of promotion/ciser progression. That according to the rules ibid the post of Executive Engineer/Deputy Director/Technical Officer (BPS-18) has to be filled up "by promotion, on the basis of seniority cum fitness from amongst the sub Divisional Officer, Assistant Engineers and Assistant Directors possessing Degree in B.E/B.Sc Engineering (Civil or Mechanical) from a recognized University, With at least five years service as such, and have passed the professional or Revenue Examination under the prescribed rules". Copy of the rules is attached as annexure

3. That recently through agenda item No.4 of the impugned minutes dated 29.4.2021 passed/issued by the standing service rules committee not comprised in accordance with Notification of the Establishment Department dated 29.1.2005 and judgment of the august Peshawar High Court, Peshawar passed in W.P No. 4378/17 Titled Manzoor Ahmad VS Govt: of KPK and other dated 11-3-2021 unfortunately due to some mala fide intentions or knowingly misinterpreted the settled law of the land, non-qualified/ non-engineers of B-Tech technology / diploma holder persons have been granted illegal benefits in shape of assigning Professional Engineering Works (PEW) and also benefiting them by awarding promotion to the Grade-17 once and now once again a 20% quota has been proposed for promotion to Grade-18 (Executive Engineer) post and will be performing professional engineering works which is against the Pakistan Engineering Council Act 1976. Copies of the impugned minutes, Pakistan Engineering Council Act, 1976, Notification and judgment is attached as annexure

4. That in light of the ibid SSRC minutes dated 29.4.2021 the respondents issued the impugned Notification dated 24.8.2021 whereby amendments have been made in the service rules of the respondent Department dated 17.2.2011 whereby non-qualified/ non-engineers of B-Tech technology / diploma holder persons have been granted illegal benefits in shape of assigning Professional Engineering Works (PEW) and also benefiting them by awarding promotion to the Grade-17 once and now once again a 20% quota has been proposed for promotion to Grade-18 (Executive Engineer) post and will be performing professional engineering works which is against the Pakistan Engineering Council Act 1976. Copy of the impugned Notification is attached as annexure

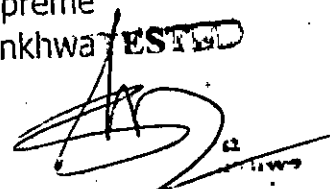
5. That appellant feeling aggrieved from the impugned minutes of the standing service rules committee passed/issued on 29.4.2021 and impugned Notification dated 24.8.2021 filed Departmental appeal before the respondent No.1 but no response has been received so far. Copy of the Departmental appeal is attached as annexure

ATTES


6. Hence the present appeal on the following grounds amongst the others.

GROUND:

1. That agenda item No.4 passed by the standing service rules committee dated 29.4.2021 is against the law, facts, Norms of natural justice and materials on the record hence not tenable and liable to be set aside.
2. That the appellant have not been treated in accordance with law and rules and as such the respondents violated Article 4 & 25 of the Constitution of Pakistan, 1973.
3. That Executive Engineer (BPS-18) in Irrigation Department is a Professional Engineering post and the person who holds the said post has to look into the matters which is related to the professional engineering works with human resource having professional BE/BSc Civil and Mechanical Engineering degrees duly registered with the Pakistan Engineering Council. At present in Irrigation Dept, all the Executive Engineer/Deputy Director (BPS-18) posts is professional engineering posts whose job requirement involves professional engineering works, allowed only to BE/BSc Civil / Mechanical Engineering degree holders registered with Pakistan Engineering Council.
4. That according to Esta Code of Khyber Pakhtunkhwa, Constitution of Standing Service Rules committee, page 257 (***Annexure-I***), Framing of Service Rules/Recruitment Rules point No. 2 which is reproduced, "***while sending proposals for framing of new Service Rules and making amendments in the existing rules; the qualifications proposed for appointment to posts should suit the requirement of the job***". Which in the present case has been completely ignored by SSRC in its meeting dated 29.04.2021, as neither change has occurred in set Job description of Executive Engineers (BPS-18) nor they have changed the requirement of the job since last SSRC and still allotted 20% quota to B-Tech/Diploma holders whose qualification does not meet the present requirement for the job. By doing so, it violates the Pakistan Engineer Council Act requirement to perform against the BPS-18 Executive Engineer Post performing professional engineering works.
5. That a committee was constituted vide Secretary Irrigation Department Notification No. SO(E)/Irr/23-5/73/Vol-IV (S. Rules) dated 06.04.2018 (***Annexure-J***) having members from Irrigation Department, C&W, LGE&RDD, Peshawar Development Authority, Public health Engineering Department and Pakhtunkhwa Energy and Development Organization. The committee was tasked to examine the position of B-Tech (Hons) degree visa viz B.Sc. / BE Engineering in light of decision of Pakistan Engineering Council (PEC), Supreme court of Pakistan, High Court Peshawar and Khyber Pakhtunkhwa

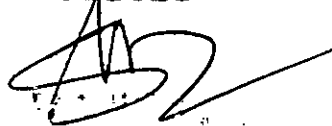
TESTED


Service Tribunal and to come up with well considerate proposal along with recommendation for allocation of uniform percentage quota for their promotion. The committee in its report submitted the following recommendations;

"That B-Tech (hons) qualification is not equivalent to BE/BSc Engineering. As basic qualification required for posting / appointment against the position of Assistant Engineer / Assistant Director / SDO etc. in BS-17 and above is BE/BSc Engineering in Civil / Mechanical / Electrical as per requirement of a department, there B-Tech (Hon) qualification holder may not be promoted and / or posted against such position(s) that involve performance of professional engineering works/services. However, such qualification (i.e., B-Tech) holders cannot be denied promotion to higher scale; provide no law/Rule is violated and for which non engineering positions (Technologists) may be created, if not already existing"

6. That the recommendation of the committee in para-3, makes the previously SSRC approved Irrigation Department Notification No. SO(E)/IRR/23-5/2010-11 dated 25 June 2012 (**Annexure-K**) not maintainable for creating quota at first place for promotion of non-engineers to BPS-17 and performing engineering works. **As a Corollary to this, in the Medical profession or health department, nurses acquire qualification of three years diploma after which they is allowed to enhance their qualification in their field even to the Master level but they is never considered as MBBS doctors nor is they posted to the professional positions or Medical Officers nor is they registered by Pakistan Medical and Dental Council (PMDC) as registered medical practitioners (Doctors).**
7. That the recommendation produced in Para-3 has been completely ignored by the department and non-professional engineers have been placed in various engineering positions and even elevated higher positions, not meeting the job criteria and equivalent qualification required for the post. One such unjustified order was issued by the Secretary Irrigation Department vide notification No. SO(E)/IRR/4-10/77/Vol-VI: dated 18-12-2020 (**Annexure-L**) by placing a B-Tech Diploma holder Sub Divisional Officer on higher position of Deputy Director Jabba Dam. The present action of creating 20% quota clearly indicates that the Secretary Irrigation Department office wants to regularize the unjustified action / notification / orders issued.
8. That the Irrigation Engineers represented by the Advocate A. Latif Afridi has already served two weeks Legal Notice dated 06 April, 2021 to Chief Secretary Office, Secretary Irrigation Office and Secretary Establishment office (**Annexure-M**) against for your inaction in removing non-engineer from engineering practicing posts.

ATTACHED



9. That the competent authority envisage provision under Pakistan Engineering Council (PEC) Act 1976 for qualification, mannerism, mode and mechanics for granting promotion to registered Civil/Mechanical engineers registered with PEC while B-Tech degree holders, is not competent / qualified for any Professional Engineering Works (PEW) and promotion to such high grades involving engineering works, hence, the promotion and assigning the duties to non-professional like B-Tech / Diploma holders by the department is illegal, unjustified and in effective upon the rights of appellant and liable to be struck down/ reversed accordingly.
10. That PEC is a statutory body having been constituted under the PEC Act V 1976 enacted by the parliament and the competent authority allegedly on several occasion has promoted non-professional, non-registered and non-graduates having diploma and B. Tech certificate against the post, which were specified/ allocated only for professional engineers, furthermore, the grievance of the appellant is that BSC/BE Civil engineering is not at par with B. Tech (Hon) and that non-professional engineers (B-Tech) were promoted posted against the post of professional engineers which is against the law and settled realities hence this practice should require to be stopped forthwith and implement the PEC Rules Regulation. ***The explanation of all kind of PEWs is enacted in section 2 (xxv) of the PEC Act 1976. (Annexure-N).***
11. The recent historical & decisive judgment of the August Court of the Supreme Court of Pakistan in its decision on the C.P No.78-K of 2015 announced on 03/10/2018 (***copy enclosed as Annexure-***), upheld the provisions of the PEC Act 1976 in its detail judgment where in ***Para 21 & 23*** is worth reading. In operative part of the judgment Para 23, the Honorable Supreme Court contains that: -
"Government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act who does not possess accredited engineering qualification from the accredited engineering institution and his name in not registered as a registered engineer or professional engineer under the PEC Act".
12. That the appellant is highly aggrieved of certain orders of competent authority which was passed in favor of the non-qualified / non registered B-Tech / diploma holders, because the people having lesser qualification were being alleviated and posted to higher posts without meeting the job criteria and which were specified for performing professional engineers work only, whereas the appellant having rightful superior education/ qualification and most importantly meeting the job criteria were put on idle positions desk jobs hence the competent authority have been committing violation of laws including the legislation of the PEC Act 1976 and the judgments of the Superior Court of the country.

REGISTERED

[Handwritten signature]

87

13. That according to the PEC Act 1976 the management and supervision of the engineering works in respect of all engineering disciplines is "**Professional Engineering Works**" and that under **section 27** can only be undertaken/ executed by engineers who is registered with PEC hence the statutory provisions of PEC Act 1976 is frequently violated by the authorities which is bad in law and also punishable act under the law, **as Section 27 (1) of PEC Act criminalizes the undertaking of engineering work by non-engineers making it an offence punishable with 6 months imprisonment or Rs.10,000 fine or both. Conversely, engaging a non-engineer for doing professional engineering work is also criminalized, being an offence punishable with 6 months imprisonment or Rs.5,000 fine or both.**
14. That Pakistan Engineering Council through various reference kept on reminding Provincial Government of Khyber Pakhtunkhwa & other competent authorities about the limitation of the PEC Act 1976, its implementation / repercussion in case of violations & even reminded to implement the decision of the afore mentioned judgment of Honorable Supreme Court C.P No.78-K of 2015, announced on 03/10/2018 but all in vain. (**Annexure-----O**).
15. That it is admitted fact regarding clarification of B-Tech degree from HEC which is not qualified engineers and for this reason PEC unable to register them as engineer so promotion awarded and duties assigned to non-graduates, non-professional and non-registered by PEC by the competent authority on engineering works, this has caused a grave injustice and utter disregard of the mandatory statutory provision of the PEC Act 1976 hence the competent authority violated not only the provision of PEC Act 1976 but also its own rules and regulation beside involved in contempt of court proceeding, if initiated.
16. That appointment of in-eligible people to handle extremely technical works would be disaster for the public at large and rule of the regulatory body is to ensure professionalism and trust for the public. Furthermore, the question of the qualification B-Tech being equivalent to BSc Engineering has already been decided by the superior court of the country. PLD 2003 SC 143, as well as in the aforementioned judgment of 03/10/2018. Once forever.
17. That most recently, review petitions have also been dismissed by the Honorable Supreme Court vide order dated, 05/03/2019. (**Annexure-----P**).
18. That the appellant through the forums of Khyber Pakhtunkhwa Association of Government Engineering (KPAGE) previously prayed the competent forums for redressal of their genuine demands regarding subject issues but no action has so far been taken and blue-eyed favors its B-Tech degrees holder / diploma holder / non engineers is still enjoying the perks & privileges of their illegal appointments / posting status against the Professional

ATTESTED

88

Engineering Works (PEW) posts starting right from Assistant Engineer to high ones.

19. That the promotions awarded to B. Tech (Hon) employees and duties assigned to them against Professional Engineering Works (PEW) is the result of political victimization, illegal, injustice and also in effective upon the valid rights of the appellant.
20. That the appellant seek permission to advance other grounds and proofs at the time of hearing.

That on acceptance of this appeal the impugned agenda item No. 4 of the SSRC minutes dated 29.4.2021 and Notification dated 24.8.2021 whereby creation of unjustified 20% promotion quota in BPS-18 (Executive Engineer) to B-Tech/Diploma Holders for working against the professional engineering works posts may kindly be declared as illegal, unconstitutional and in effective upon the rights of appellant and may kindly be set aside. That the respondents may further please directed that not to issue/make promotions of B-Tech/Diploma holders against the post specified for professional engineers, in line with the provisions of the PEC Act, 1976 and in light of the judgments/decisions dated 3.10.2018 of the august Supreme Court of Pakistan in C.P No. 78-K/2015. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

Dated: 15.12.2021


APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK,

ADVOCATE

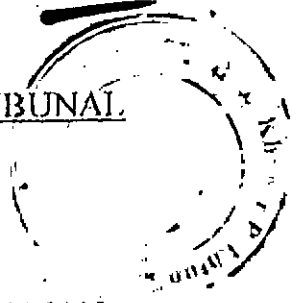
Flat No. 4, 2nd Floor, JUMA KHAN PLAZA,
WARSAK ROAD, Peshawar
0345-9383141

ATTESTED


By
Khy
Secy

89

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



Service Appeal No. 7917/2021

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MISS FAREEJIA PAUL ... MEMBER(E)

Engineer Imtiaz Khan, Deputy Director (PSU), O/O Small Dam Directorate, Irrigation Department, Khyber Pakhtunkhwa, Peshawar.
.....(Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
2. The Secretary Irrigation Department, Government of Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Establishment Department, Government of Khyber Pakhtunkhwa, Peshawar.
4. The Secretary Law & Parliamentary Affairs Department, Government of Khyber Pakhtunkhwa, Peshawar.
5. The Secretary, Finance Department, Government of Khyber Pakhtunkhwa, Peshawar.
6. The Chief Engineer (South) Irrigation Department, Khyber Pakhtunkhwa, Peshawar.
7. Engineer Alam Zab SDO, Irrigation Department, Mardan and 03 others..... (Respondents)

Mr. Noor Muhammad Khattak,
Advocate ... For appellant

Mr. Muhammad Jan,
District Attorney ... For official respondents

Mr. Zartaj Anwar & Mian Afrasiab Gul ... For private respondents
Kakakhel, Advocates

Date of Institution.....21.12.2021

Date of Hearing.....13.07.2023

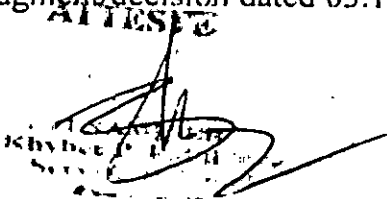
Date of Decision..... 13.07.2023

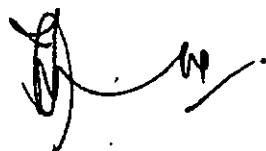
ATTESTED

JUDGEMENT

FAREEHA PAUL, MEMBER (E): Through this single judgment, we intend to dispose of instant appeal as well as the connected Service Appeal No.207/2022, titled Engineer Sohail Khan, Deputy Director (Design), O/O Chief Engineer (South) Irrigation Department, Khyber Pakhtunkhwa, Peshawar and four others Vs. The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar and others" as in both the appeals common questions of law and facts are involved, so both can be conveniently decided together.

02. The service appeal in hand has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned Agenda Item No. 4 of the SSRC Minutes dated 29.04.2021 and notification dated 24.08.2021 whereby unjustified 20% promotion quota in BPS-18 (Executive Engineer) to B-Tech/Diploma Holders for working against the professional engineering works posts has been created by the respondents and against no action taken on the departmental appeal of appellant within the statutory period of ninety days. It has been prayed that on acceptance of this appeal the impugned agenda item No. 4 of the SSRC minutes dated 29.04.2021 and notification dated 24.08.2021 might be declared as illegal, unconstitutional and in-effective upon the rights of appellant and might be set aside and that the respondents might be directed not to issue/make promotions of B-Tech/Diploma Holders against the posts specified for professional engineers, in line with the provisions of the PEC Act, 1976 and in light of the judgment/decision dated 03.10.2018 of the august Supreme Court of Pakistan

ATTEST

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL

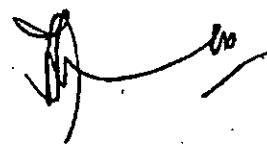


in C.P. No. 78-K/2015, alongwith any other remedy, which the Tribunal deemed fit and appropriate.

03. Brief facts, as given in the memorandum of appeal, are that the appellant was qualified Civil/Mechanical Engineer and registered with Pakistan Engineering Council. Under the existing rules of the respondent department, the appellant had better prospects of promotion and career progression. According to those rules, the post of Executive Engineer/Deputy Director/Technical Officer (BPS-18) had to be filled up by promotion, on the basis of seniority-cum-fitness from amongst the Sub Divisional Officers, Assistant Engineers and Assistant Directors possessing Degree in B.E/B.Sc Engineering (Civil or Mechanical) from a recognized University, with at least five years service as such, and who had passed the professional or Revenue Examination under the prescribed rules. Through agenda item No. 4 of the impugned minutes dated 29.04.2021 passed/issued by the Standing Service Rules Committee, which was not comprised in accordance with the notification of the Establishment Department dated 29.01.2005 and judgment dated 11.03.2021 of the august Peshawar High Court, Peshawar passed in Writ Petition No. 4378/17 titled "Manzoor Ahmad Vs. Government of Khyber Pakhtunkhwa and others", due to some malafide intentions or knowingly misinterpreted the settled law of the land, and non-qualified/non-engineers of B-Tech Technology/diploma holder persons had been granted illegal benefits in the shape of assigning Professional Engineering Works and also benefiting them by awarding promotion to Grade-17 and again a 20% quota had been proposed for promotion to Grade-18 (Executive Engineer) post which was against the Pakistan Engineering Council Act, 1976. In the

ATTEST

CHIEF

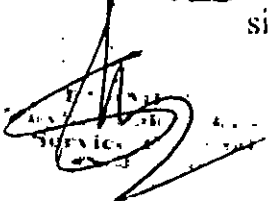


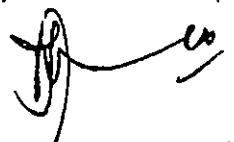
light of the SSRC minutes dated 29.04.2021, the respondents issued the impugned notification dated 24.08.2021 whereby amendments had been made in the service rules of the respondent department dated 17.02.2011. Feeling aggrieved from the impugned minutes of the SSRC and impugned notification dated 24.08.2021, the appellant filed departmental appeal before respondent No. 1 but no response was received, hence the present appeal.

04. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant, the learned District Attorney for the official respondents and counsels for the private respondents and perused the case file with connected documents in detail.

05. Learned counsel for the appellant after presenting the case in detail argued that the Executive Engineer (BPS-18) in Irrigation Department was a Professional Engineering post and the person who held the said post had to look into the matters which were related to the professional engineering works. He referred to Beta Code of Khyber Pakhtunkhwa, according to which the composition of Standing Service Rules Committee and its function had been given as framing of Service Rules/Recruitment Rules and that while sending proposals for framing of new Service Rules and making amendments in the existing rules, the qualifications proposed for appointment to posts should suit the requirement of the job. The learned counsel argued that in the case under reference, those instructions had been completely ignored by SSRC. According to him, neither change occurred in set job description of Executive Engineers (BPS-18) nor they changed the requirement of the job since last SSRC and still allotted 20% quota to B-Tech/Diploma holders.

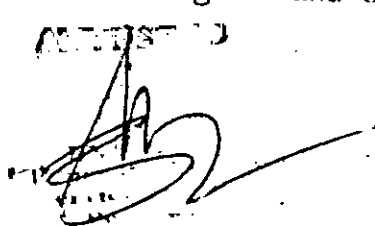
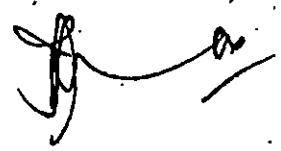
ATTESTED


 OFFICE
 SERVICE



whose qualification did not meet the requirement for the job and that by doing so, the requirements of the Pakistan Engineering Council Act had been violated. He elaborated that the grievance of the appellant was that B.Sc/BE Civil Engineering was not at par with B.Tech (Hon) and that non-professional engineers with B-Tech qualification were promoted and posted against the posts of professional engineers which was against the law. He referred to the judgment of the august Supreme Court of Pakistan in C.P No. 78-K of 2015 announced on 03.10.2018 which upheld the provisions of the PEC Act 1976 in its detailed judgment and read out the operative part of the judgment, "*Government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as a registered engineer or professional engineer under the PEC Act.*" He further contended that according to the PEC Act 1976, the management and supervision of the engineering works in respect of all engineering disciplines was "Professional Engineering Work" and that under section 27, it could only be undertaken/executed by engineers who were registered with PEC.

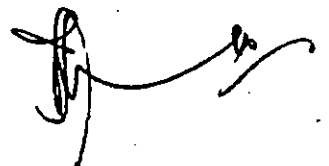
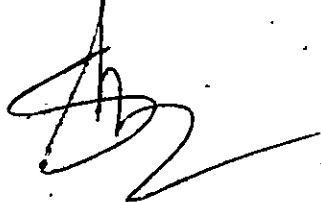
06. Learned District Attorney, alongwith learned counsels for the private respondents, while rebutting the arguments of learned counsel for the appellant, argued that the rules quoted by the appellant were applicable till 24.08.2021, but afterwards the Irrigation Department vide notification dated 24.08.2021, in consultation with Establishment Department and Finance Department, allocated 12% quota for promotion of SDOs having B-Tech Honor Degree and 8% quota for promotion of Diploma Holder SDOs,

through proper procedure of Standing Service Rules Committee. Regarding the composition of SSRC, the learned AAG informed that the Law Department was not its member as clarified vide letter dated 08.09.2016 of the Law Department. He argued that the B.Tech and Diploma Holder SDOs were granted quota for promotion to BS-18 in the light of recommendation of SSRC, in consultation with Establishment Department and Finance Department, and the amendment was properly vetted by the Law Department. So far as the quota granted for promotion to B.Tech and Diploma Holder Sub Engineers of Irrigation Department to BPS-17 in 2011 as well as the amendment under reference in the present service appeal was concerned, it was clarified that the civil servants were governed under Civil Servant Act, 1973 and not under PIC Act, 1976. A request was made by all of them that the appeal might be dismissed.

07. Arguments and record presented before us transpire that the appellants are aggrieved with the amendment in the Service Rules of the Irrigation Department. According to the old rules, for promotion to the post of Executive Engineer/Director/Technical Officer (BS-18), 100% quota was allocated on the basis of seniority-cum-fitness from amongst the Sub Divisional Officers, Assistant Engineers and Assistant Directors possessing Degree in BE/B.Sc Engineering (Civil & Mechanical) from a recognized University, with at least five years service as such, and who had passed the professional or Revenue Examination under the prescribed rules. The Standing Service Rules Committee in its meeting held on 29.04.2021, recommended amendment in the existing rules as follows:

ATTESTED



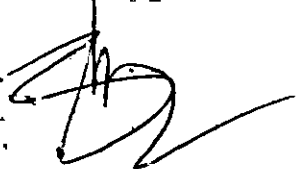
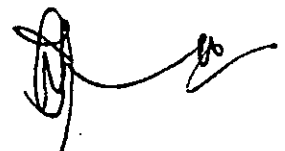
- i. 80% by promotion, on the basis of seniority-cum-fitness from amongst the Sub Divisional Officers, Assistant Engineers and Assistant Directors possessing Degree in B.E/B.Sc Engineering (Civil or Mechanical) from a recognized University with at least five years service as such, and have passed the professional or Revenue Examination under the prescribed rules.
- ii. 12% by promotion, on the basis of seniority-cum-fitness from amongst the Sub Divisional Officers, Assistant Engineers and Assistant Directors possessing Degree in B.Tech (Hons) from a recognized University, with at least five years service as such, and have passed the professional or Revenue Examination under the prescribed rules.
- iii. 08% by promotion, on the basis of seniority-cum-fitness from amongst the Sub-Divisional Officers, Assistant Engineers and Assistant Directors possessing Diploma of Associate Engineering from a recognized Board, with at least five years service as such, and have passed the professional or Revenue Examination under the prescribed rules."

08. The above amendment was approved by the Provincial Government and notified in the official gazette on 24.08.2021. Against that amendment, the appellants preferred departmental appeals with the prayer for setting aside the notification and when those were not honoured they filed these service appeals.

09. There is no dispute on the fact that setting criteria for appointment and promotion for the provincial civil servants is the domain of the Provincial Government. Similarly the quotas allocated to different categories of officers and officials and their qualification, to make them eligible for such appointments and promotions, is also the domain of provincial government.

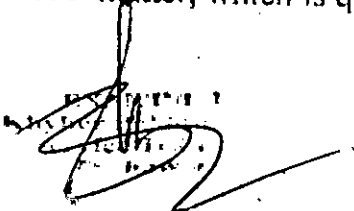
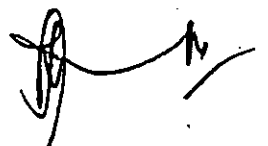
The question raised before us is that the post of Executive Engineer is a

ATTACHED

professional engineering post and a person holding that post has to look into such matters which are related to the professional engineering work and those having professional qualification of BE/B.Sc Civil/Mechanical Engineering qualify and that no B.Tech or Diploma holder is suitable for that position. While presenting this argument, the learned counsel for the appellant has tried to gain strength from the Pakistan Engineering Council Act 1976 which has clearly defined the terms "professional engineering work", "registered engineer", "accredited engineering qualification", "engineering institution" and so on. By referring to PEC, one must not forget that it is meant to regulate the engineering profession and maintain realistic and internationally relevant standards of professional competence and ethics of engineers, license them and professionally promote and uphold the standards. As far as determining the academic and professional qualification of an engineer, who is a civil servant also, and his promotion from one grade to the next is concerned, it is the sole prerogative of the provincial government.

10. Appellants have not only relied on the judgment reported as 2018 SCMR 2098 titled "Maula Bux Shaikh and others versus Chief Minister Sindh and others" but have also annexed the same with their appeal as annex-"O". The learned counsel for the respondents and learned District Attorney also relied on the same. The august Supreme Court of Pakistan, while hearing CP No. 78- K of 2015 filed against the judgment passed by Sindh Service Tribunal Karachi, dismissing the appeals of petitioners, has also dismissed the Civil Petition and refused the leave by discussing in detail every aspect of the ~~AT matter~~ which is quite similar to these appeals, in the following manner:-





"19. On examination of above case law, we note that nowhere in the judgments, the government power to prescribe for qualification and other conditions of service for promotion to a post has been assailed nor the judgments have put any sort of embargo on the government in prescribing the qualification and other conditions of service for a post for the purpose of promotion. Having said this, the judgments as discussed above, have rather focused on the government power in this regard to be unfettered to the extent that it is not in derogation of any law or provisions of the Constitution.

20. Further, the main principle that is deductible from the above judgments of this Court is that it is the domain of the Government to decide whether a particular academic qualification of a civil servant/employee is sufficient for promotion from one grade to another higher grade and whereas it is in the domain of the Pakistan Engineering Council to decide whether a particular academic qualification can be equated with another academic qualification but it has no power to say that the civil servants/employees holding particular academic qualification cannot be promoted from a particular grade to a higher grade. Thus on the basis of above pronouncements of this Court, it is clear that the notification dated 19.03.2014 cannot be validly or justifiably challenged on the ground that it impinges or infringes upon any of the provisions of PEC Act, 1976 and thus would be ultra vires. No such finding can justifiably be recorded in that as it has been laid down quite empathetically that the government exercises its own power under the domain of law with regard to promotion of civil servants/employees under Sindh Civil Servants Act, 1973 and Rules made thereunder while PEC Act does not overreach or put an embargo upon the government in the matter of prescribing of qualification and other conditions of service of civil servants/employees for their promotion to higher grade. Yet again, we note that although the vires of notification dated 19.03.2014 has been challenged but we observe that this very notification has been

ATTEST

IN WITNESS
Whereof



issued under sub-rule (2) of Rule 3 of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, which rules have been made under section 26 of Sindh Civil Servants Act, 1973. Neither rule 3(2) of the said rules nor section 26 of the Act, 1973 have been challenged nor their vires called in question before us. Thus from this also it is quite apparent that the petitioner does not challenge the government power for prescribing qualification and conditions of service of civil servants/employees for their promotion to higher grade. In any case, we note that the provisions of PEC Act nor the rules and regulations made under it will operate as bar on government to prescribe for qualification and other conditions of service of civil servants/employees for promotion to higher grade.

21. The PEC Act as its preamble itself shows so also reading of the whole Act shows that it essentially deals with regulations of engineering profession in it, inter alia, it prescribes for qualification of professional engineers, maintenance of register of professional engineers and accrediting of engineering universities etc and not as a regulator of employment be that be of government service or in the private service. The reasons for it could be found that all sort of engineering work could not be and may not be a professional engineering work for performance of which professional engineers are required. For example, technician, mechanic, draftsman, foreman, supervisor and overseer etc at best could be a skilled Workman who may work independently or under the supervision of professional engineer and for such technician, mechanic, draftsman, foreman, supervisor and overseer, the employer may not require holding of professional engineering degree. However, if the person is required to perform any of professional engineering work as defined under the PEC Act, the provisions of this Act will come into operation for ensuring as the work of professional engineer can and only be performed by professional engineer as recognized by PEC Act. The professional

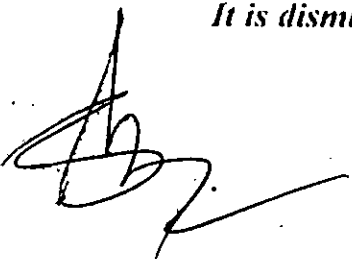
APPENDIX

[Handwritten signature]

engineering work has been clearly defined under section 2(xxv) of the PEC Act which has already been reproduced above and lays down in sufficient details the works which are noted to be as professional engineering works and such works as mandatorily required by the PEC Act to be performed by a professional engineer possessing accredited engineering qualification from accredited engineering institutions in Pakistan and abroad with experience and passing of test of the Council and no other person is allowed to perform professional engineering works be that be a diploma holder or B.Tech. degree holder. This aspect of the matter has been substantially addressed by the PEC Act itself when making provision of section 27(5A) that "no person shall unless registered as a registered engineer or professional engineer, hold any post in an engineering organization where he has to perform professional engineering work." Thus professional engineering work can only be performed by a person who is registered as registered engineer or professional engineer and both registered engineer and professional engineer in terms of the PEC Act are by law required to possess accredited engineering qualification as prescribed by the PEC Act from accredited engineering institution

22. We may further observe that section 27 of the PEC Act provides for penalty for a person who undertakes any professional engineering work if his name is not borne on the Register but it also makes the employer who employs for any professional engineering work any person whose name is not, for the time being, borne on the Register to perform professional engineering work, shall also be liable for penalty as prescribed in the PEC Act itself. Thus both civil servant/employee and their employer would be liable to penalty as provided under section 27 if they undertake or allow a person to undertake professional engineering work whose name is not borne on register under PEC Act.

23. The net result of above discussion is that this petition fails. It is dismissed and leave refused, however with note of caution that



100

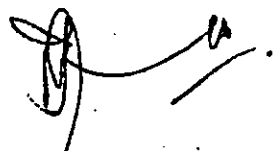
government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as a registered engineer or professional engineer under the PEC Act."

11. Another point raised by the learned counsel for the appellant was regarding the composition of Standing Service Rules Committee. He referred to a notification dated 29 January 2005, according to which the composition of SSRC was as follows:-

- | | |
|---|------------------|
| 1. Administrative Secretary concerned | Chairman |
| 2. Additional Secretary (Regulation), I&A Deptt. | Member |
| 3. Additional Secretary (Regulation), Finance Deptt. | Member |
| 4. Additional Secretary, Law Department | Member |
| 5. Head of the attached Department concerned | Member |
| 6. Deputy Secretary (Admn) of the Department concerned. | Member/Secretary |

12. It was clarified that at a later stage, the Additional Secretary, Law Department was deleted from the Committee. Based on the record, the learned counsel for the appellant raised an observation that the minutes of the meeting of SSRC held for amending the impugned service rules, were signed by the Deputy Secretary, Establishment Department and Section Officer, Finance Department instead of Additional Secretaries of those two departments. Moreover, the Deputy Secretary of Irrigation Department, who was a member-cum-Secretary of the Committee, did not sign the minutes. Copy of minutes provided with the appeal indicate that the Additional

ATT: S. S. Secretary of Irrigation Department was in attendance during the meeting as

member-cum-secretary of the Committee. As far as the representative of Establishment Department is concerned, a letter of clarification was produced by the learned counsel for private respondents, which was issued to the appellant answering his queries under the RTI Act, according to which the Deputy Secretary, Mr. Muhammad Yusuf, who attended the meeting, was holding the charge of Additional Secretary also. This leaves only the Finance Department from where representation, was not according to the notified composition; this alone will not be a sole ground for declaring the impugned rules as invalid because majority of the members of the SSRC had attended and decided the matter before them. Moreover, if the government, which was the approving authority of Service Rules, had no objection on the representation viz-a-viz the notified composition of the committee on that particular day, then this Tribunal does not find any objection on it.

13. In view of the above discussion, both the service appeals are dismissed with cost. Copy of this judgment be placed in the file of connected appeal. Consign.

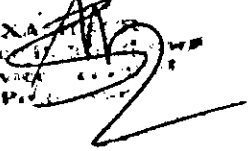
14. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 13th day of July, 2023.*


 (FAREEHA PAUL)
 Member(I)


 (KALIM ARSHAD KHAN)
 Chairman

Fazle Subhan, P.S

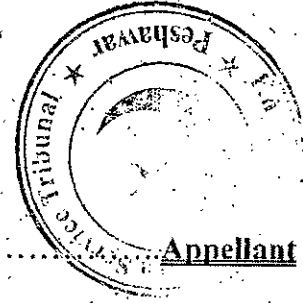
Date of Presentation of Appⁿ 03/10/23
 Number of Page 20
 Court Fee 100/-
 Urgent
 Total 105/-
 Name of
 03/10/23
 03/10/23

EXA
 why do
 Service
 P.


-1
102

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 813 /2023



Muhammad Ghazanfarullah
Sub Divisional Officer (Mega Projects),
Division-II, C&W Department, Peshawar

Versus

1. The Govt. of Khyber Pakhtunkhwa
through Chief Secretary,
Civil Secretariat, Peshawar.
2. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Communication & Works Department,
Civil Secretariat, Peshawar.
3. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Establishment Department,
Civil Secretariat, Peshawar.
4. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Finance Department, Civil Secretariat, Peshawar. Respondents


SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant joined the C&W Department as Sub-Engineer (BPS-11) on 21.10.1986 and at the moment has got about more than 37 years unblemished and outstanding service record at his credit.
2. That due to poor service structure and non-existent chances of promotion, the appellant and his other colleagues similarly placed were deprived of their due career progression inspite of acquiring the higher qualification of B.Tech. (Hons) Degree, therefore, the Department by means of Notifications dated 14.10.2014, 26.03.2016 (Annex;-A) allocated separate quota for B.Tech (Hons) Degree holder Sub-Engineers for promotion to the post of Sub Divisional Officer/Assistant

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- Engineer (BPS-17) and in pursuance of which the appellant got promoted to BPS-17 on 04.11.2016 after long 30 years of service. (Seniority Lists of the BPS-17 Officers as stood on 20.01.2022 and 01.01.2023 *Annex;-B & B/1* and Status Sheet of existing & proposed Separate Seniority Lists for SDOs (BPS-17) B.Tech. (Hons) Graduates prepared by the appellant *Annex;-C*).
3. That as no promotion quota to BPS-18 was reserved for B.Tech. (Hons) Degree holder SDOs/Assistant Engineers (BPS-17), therefore, the Provincial Government constituted a high level Committee under the chairmanship of Additional Chief Secretary vide Notification dated 07.09.2021 (*Annex;-D*) to resolve the issue. The Committee delayed the matter, therefore, the appellant alongwith other Officers filed two Writ Petitions bearing No.1539/2021 and No.2707/2021 before the Peshawar High Court for directing the Committee to finalize the matter at the earliest in accordance with law. Both the Writ Petition were heard together and disposed of vide Judgment dated 24.03.2022 (*Annex;-E*).
4. That it is pertinent to add that the Irrigation Department, Govt. of Khyber Pakhtunkhwa vide Notification dated 24.08.2021 (*Annex;-F*) has reserved 12% quota for promotion of SDOs (BPS-17) holding B.Tech. (Hons) Degrees to the post of Executive Engineer (BPS-18). Similar is the case with Public Health Engineering Department vide Notification dated 31.01.2022 (*Annex;-G*) where initially such quota was 3% but was substituted with 8%. In the like manner, the Local Government & Rural Development Department has also earmarked 20% quota vide Notification dated 13.05.2016 (*Annex;-H*). The Energy & Power Department has also separated the B.Tech. (Hons) Degree holders for the purpose of promotion to BPS-18 vide Notification dated 14.09.2018 (*Annex;-I*). Other sister Provinces also kept such quota as is evident from the Notification dated 16.12.2013 (*Annex;-J*) issued by the Govt. of Sindh, Irrigation Department, Notification dated 11.01.2013 (*Annex;-K*) issued by the Govt. of Sindh Energy Department, Notification dated 19.03.2014 (*Annex;-L*) issued by the Govt. of Sindh, Works & Services Department. The Govt. of Baluchistan Services & General Department vide Notification dated 23.08.1997 (*Annex;-M*) has also catered for such separate quota.
5. That after the Judgment of the High Court *ibid*, the high level Committee after threadbare discussion submitted its Report (*Annex;-N*) vide letter dated 10.06.2022 to the Competent Authority and made favourable recommendations. Para -8 of the recommendations is reproduced herein below:-

ATTESTED

EXC. JUDGE
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

"8. After threadbare discussion in light of the Supreme Court Judgment referred to above, the Khyber Pakhtunkhwa Civil Servants Act, 1973, APT Rules, 1989 and the Peshawar High Court Judgment dated 24.03.2022 regarding convening of SSRC meeting, it was unanimously recommended that C&W Department may review its existing service rules by providing opportunities/chances of promotion to the B.Tech (Hons) degree holders and Diploma holders Assistant Engineers on the analogy of other technical departments i.e. Irrigation, E&P and PHE Department."

6. That in the light of recommendations ibid, the matter was referred to the Standing Service Rules Committee ("SSRC") for framing/amending the existing service Rules. The C&W Department accordingly prepared Working Paper (*Annex;-O*) wherein instead of following the recommendations of the high level Committee ibid, two proposals were submitted to the SSRC. The first meeting of the SSRC was held on 18.08.2022 (Minutes *Annex;-P*) wherein the proposal was returned to the C&W Department as the same were not in accordance with the recommendations of the Committee. Subsequently, the second meeting of the SSRC was held on 16.09.2022 (Minutes *Annex;-Q*) wherein the SSRC in deviation of the recommendations of the high level committee approved the proposal of the C&W Department that BPS-18 posts are 100% by promotion and that there is no need of mentioning qualification in Column No.3 of the proposed Service Rules. The appellant alongwith others meanwhile appealed on 15.09.2022 (*Annex;-R*) to the Secretary Establishment, Govt. of Khyber Pakhtunkhwa for reserving 20% quota instead and for stopping the promotion till then, however, the same solicited no response.
7. That finally the impugned Notification dated 25.11.2022 (*Annex;-S*) was issued against which the appellant preferred a departmental appeal (*Annex;-T*) on 14.12.2022 which was not decided within the statutory period of 90 days, hence this appeal inter-alia on the following grounds:-

Grounds:

- A. Because Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned Notification, which is unjust, unfair and hence not sustainable in the eye of law.
- B. Because the appellant has been meted out a discriminatory treatment in violation of Article 25 & 27 of the Constitution of Islamic Republic of Pakistan, 1973 inasmuch as other similarly placed Officers counterparts of the appellant serving in

ATTESTED


Secretary
Services

6 105
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2023

Muhammad Ghazanfarullah Appellant

Versus

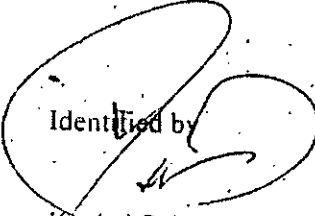
The Govt. of KPK and others Respondents

Affidavit

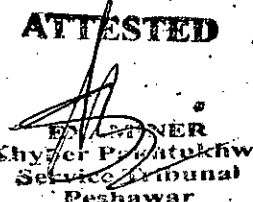
I, Muhammad Ghazanfarullah, Sub Divisional Officer (Mega Projects), Division-II, C&W Department, Peshawar, do hereby solemnly affirm and declare on oath that the contents of this Appeal are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Tribunal:

Deponent

Identified by


Khaled Rahman
ASC

ATTESTED


ATTESTER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- 5 106

F. Because numerous colleagues of the appellant serving in the C&W Department after serving for the whole of their lives stood retired without any substantial career advancement inspite of long meritorious services. In the same way, the appellant would also stand retire after more than 40 years of their service without any meaningful career advancement, if the impugned Notification is not set aside.

G. That appellant would like to offer some other grounds during the course of arguments.

It is therefore, humbly prayed that on acceptance of this appeal, the impugned Notification dated 25.11.2022 may graciously be struck down being ultra vires, discriminatory, unreasonable and this Tribunal may further be pleased to direct the Respondents to act in the matter in accordance with law and to amend the impugned Notification dated 25.11.2022 in line with the recommendations of the high level committee and reserve separate promotion quota of 20% to the B.Tech. (Hons) Degree holder SDOs/Assistant Engineers. (BPS-17) to the post of Executive Engineer (BPS-18) in the C&W Department.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

Appellant

Khaled Rahman
Advocate, Supreme Court

&

Muhammad Amin Ayub

&

Muhammad Ghazanfar Ali
Advocates, High Court

Dated: 10/04/2023

ATTESTED

ATTESTER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

4 107⁹

identical circumstances in other Departments of the Provincial Government have been earmarked specific quota for their career progression which has been denied to the appellant without any justification muchless lawful. The classification made by the Respondents is not based on any intelligible differentia and therefore ultra vires and thus liable to be struck down.

- C. **Because** in view of the judgments of the superior fora and the anomalous state of affairs, the Provincial Government constituted a high level committee to resolve the issue. The committee was comprising of the high-ranking Officers of the Provincial Government under the chairmanship of Additional Chief Secretary, Khyber Pakhtunkhwa. The committee so constituted after thoroughly investigating the issue and after long threadbare discussion reached to the conclusion that the C&W Department should also reserve separate quota for B.Tech. (Hons) Degree holder SDOs in the light of the judgments of the superior fora on the analogy of other Departments. In spite of clear recommendations, the SSRC was misled into concurring with the C&W Department's Proposal and thus did not reserve separate quota as per recommendations of the high level committee. Thus the impugned Notification is unlawful, arbitrary, unreasonable, discriminatory and hence not sustainable in the eye of law and liable to be set aside.
- D. **Because** the appellant has suffered a lot as he has served the Department for long 37 years and remained deprived of career advancement and it was lately when the Department realized the Rules were amended and appellant got the first opportunity of promotion to the next higher grade in 2016. In case the impugned Notification is maintained, the appellant will never get a second chance of promotion to the next higher grade as he is at the twilight of his service career. The other counterparts of the appellant serving in other Departments have got numerous opportunities of promotion to BPS-18 and even BPS-19 but the appellant has been deprived of it in violation of law. Thus the impugned Notification is arbitrary, unfair, unjust and thus not maintainable under any canons of law, justice and fair-play.
- E. **Because** the Provincial Government has adopted a highly discriminatory attitude in respect of its officers as on the one hand the appellant and his other colleagues have been refused the channel of promotion to the next higher grade by means of the impugned Notification whereas other Officers serving in other Departments of the Provincial Government have been provided such opportunity which is against the law of the land and thus not maintainable.

ATTESTED

ATTESTED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

7

108

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____ /2023

Muhammad Ghazanfarullah Appellant

Versus

The Govt. of KPK and others Respondents

Application for restraining the Respondents from processing promotion cases to the post of Executive Engineers (BPS-18) till the final disposal of the instant Service Appeal.

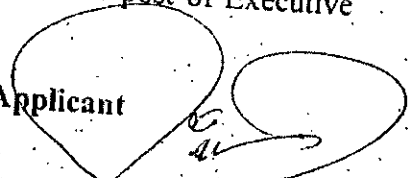
Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be taken as an integral part of this application, which make out an excellent prima facie case in favour of applicant/appellant.
3. That the balance of convenience and inconvenience also lies in favour of applicant/appellant and in case the Respondents are not restrained from processing the promotion cases to the post of Executive Engineer (BPS-18), the applicant/appellant will suffer irreparable loss.

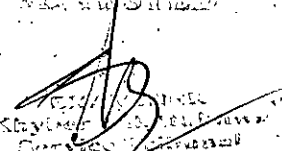
It is, therefore, humbly prayed that on acceptance of this application, Respondents may kindly be restrained from processing the promotion cases to the post of Executive Engineer (BPS-18) till the final disposal of the instant appeal.

Through

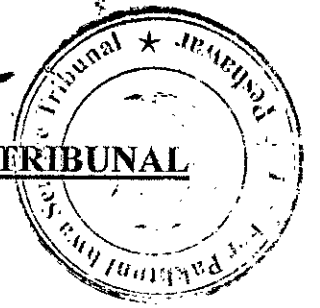
Applicant


Khaled Rahman,
Advocate, Supreme Court

: 90 /04/2023

RECEIVED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

109



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 813/2023

BEFORE: MR. SALAH-UD-DIN ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Muhammad Ghazanfarullah, Sub Divisional Officer (Mega Projects),
Division-II, C&W Department, Peshawar. (Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar.
2. The Secretary, Government of Khyber Pakhtunkhwa Communication & Works Department, Civil Secretariat, Peshawar.
3. The Secretary, Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar.
4. The Secretary, Government of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar. (Respondents)

M/S Khalid Rehman & Zartaj Anwar,
Advocates

... For appellants

Mr. Asad Ali Khan,
Assistant Advocate General

... For respondents

Date of Institution..... 11.04.2023

Date of Hearing..... 14.09.2023

Date of Decision..... 15.09.2023

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

JUDGEMENT

FAREEHA PAUL, MEMBER (E): Through this single judgment, we intend to dispose of instant appeal as well as connected Service Appeal No. 812/2023 titled "Farhat Ali Versus The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others", Service Appeal No. 867/2023 titled "Sher Wali Jhang Versus the Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others", Service Appeal No. 864/2023 titled "Muhammad Humayun Versus the Government of Khyber Pakhtunkhwa

110

through Chief Secretary, Civil Secretariat, Peshawar and others”, Service Appeal No. 865/2023 titled “Aurangzeb Khan Versus the Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others, and Service Appeal No. 866/2023 titled “Azhar Ali Versus the Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar and others” as in all the appeals common questions of law and facts are involved.

2. The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the prayer that on acceptance of the appeal, the impugned notification dated 25.11.2022 might be struck down being ultra-vires, discriminatory and unreasonable and the respondents might be directed to act in the matter in accordance with law and to amend the impugned notification dated 25.11.2022 in line with the recommendations of the high level committee and reserve separate promotion quota of 20% to the B.Tech.(Hons) Degree holder SDOs/Assistant Engineers (BPS-17) to the post of Executive Engineer (BPS-18) in the C&W Department alongwith any other remedy, which the Tribunal deemed fit and appropriate.

ATTESTED

3. Brief facts of the case, as given in the memorandum of appeal, are that the appellant joined the C&W Department as Sub Engineer (BPS-11) on 21.10.1986 and had got more than 37 years service at his credit. Due to poor service structure and non-existent chances of promotion, the appellant and his other similarly placed colleagues were deprived of their due career progression inspite of acquiring the higher qualification of B.Tech. (Hons)

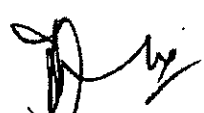
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

~~FD~~111

Degree. The department, by means of notifications dated 14.10.2014 and 26.03.2016, allocated separate quota for B.Tech (Hons) Degree holder Sub-Engineers for promotion to the post of Sub Divisional Officer/Assistant Engineer (BPS-17) and in pursuance of that, the appellant got promoted to BPS-17 on 04.11.2016 after long 30 years of service. As no promotion quota to BPS-18 was reserved for B.Tech. (Hons) Degree holder SDOs/Assistant Engineers (BPS-17), therefore, the Provincial Government constituted a high level committee under the chairmanship of Additional Chief Secretary vide notification dated 07.09.2021 to resolve the issue. The Committee delayed the matter, therefore, the appellant alongwith other officers filed two Writ Petitions bearing No. 1539/2021 and 2707/2021 before the Hon'ble Peshawar High Court for directing the Committee to finalize the matter at the earliest in accordance with law. Both the Writ Petitions were heard together and disposed of vide judgment dated 24.03.2022. The Irrigation Department, Government of Khyber Pakhtunkhwa vide notification dated 24.08.2021 reserved 12% quota for promotion of SDOs (BPS-17) holding B.Tech. (Hons) Degrees to the post of Executive Engineer (BPS-18). Similarly, the Public Health Engineering Department vide notification dated 31.01.2022 substituted the quota from 03% to 8%. In the like manner, the Local Government & Rural Development Department also earmarked 20% quota vide notification dated 13.05.2016. The Energy & Power Department also separated the B.Tech. (Hons) Degree holders for the purpose of promotion to BPS-18 vide notification dated 14.09.2018. Other sister provinces also kept such quota. After the judgment of the Hon'ble Peshawar High Court, the high level committee, after threadbare discussion

ATTIESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



submitted its report dated 10.06.2022 to the competent authority and made favourable recommendations in para-8 which were as follows:-

“8. After threadbare discussion in light of the Supreme Court Judgment referred to above, the Khyber Pakhtunkhwa Civil Servants Act, 1973, APT Rules, 1989 and the Peshawar High Court judgment dated 24.03.2022 regarding convening of SSRC meeting, it was unanimously recommended that C&W Department may review its existing service rules by providing opportunities/chances of promotion to the B.Tech (Hons) degree holders and Diploma holders Assistant Engineers on the analogy of other technical departments i.e. Irrigation, E&P and PHE Department.”

The matter was referred to the Standing Service Rules Committee for framing/amending the existing service Rules. The C&W Department accordingly prepared Working Paper wherein, instead of following the recommendations of the high level committee, two proposals were submitted to the SSRC. Meeting of the SSRC was held on 16.09.2022 wherein it approved the proposal of the C&W Department. The appellant alongwith others meanwhile appealed on 15.09.2022 to the Secretary Establishment, Government of Khyber Pakhtunkhwa for reserving 20% quota instead and for stopping the promotion till then, but it was not responded. Finally the impugned notification dated 25.11.2022 was issued against which the appellant preferred a departmental appeal on 14.12.2022 which was not decided within the statutory period of 90 days, hence this appeal.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


4. Respondents were put on notice. They submitted their joint written reply/comments on the appeal. We heard the learned counsel for the appellant as well as the learned Assistant Advocate General for the respondents and perused the case file with connected documents in detail.

5. Learned counsel for the appellant, after presenting the case in detail, contended that the respondents had not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973. He argued that the appellant had been meted out a discriminatory treatment in violation of Article 25 and 27 of the Constitution as other similarly placed officers/counterparts of the appellant serving in identical circumstances in other departments of the provincial government had been earmarked specific quota for their career progression. He further argued that inspite of clear recommendations, the SSRC was misled into concurring with the C&W Department's proposal and thus did not reserve separate quota as per recommendations of the high level committee. He requested that the appeal

might be accepted as prayed for.

6. Learned Assistant Advocate General, while rebutting the arguments of learned counsel for the appellant, argued that the department had enhanced 3.5% quota to 10% for promotion of B.Tech (Hons) Sub Engineers to the rank of Assistant Engineer/SDO (BS-17) in the C&W Department through notification dated 26.03.2018. The department also considered the promotion of B.Tech (Hons) Assistant Engineers/SDOs (BS-17) to the rank of BS-18 in the light of court orders as well as high level

ATTESTED


 EXAMINER
 Member Pakhtunkhwa
 Service Tribunal
 Peshawar



114

committee which was constituted under the chairmanship of Additional Chief Secretary P&D Department and a notification in that behalf was issued after fulfillment of all codal formalities. He argued that the promotion of Assistant Engineer/SDO (BS-17) C&W Department to the rank of BS-18 would be considered as per seniority list with at-least five (05) years service as such and who had passed the Professional Examination, as prescribed in West Pakistan Buildings & Roads Code, irrespective of any discipline. He further argued that the Government was empowered to frame or amend the service rules of any Department through Standing Service Rules Committee. He requested that the appeal might be dismissed.

7. Through the instant service appeal, the appellants have impugned the amendment in Service Rules. Through a notification dated 25.11.2022, the Government of Khyber Pakhtunkhwa, Communication and Works Department amended the Service Rules by substituting serial No. 3 of the head "Engineering Service" as follows:-

Sr. No.	Nomenclature of the post	Method of Recruitment.
1	2	5
3	Executive Engineer/Design Engineer/Senior Engineer/Research Officer/ Deputy Director Technical/ Senior Engineer (Survey/RMU) (BPS-18)	By promotion, on the basis of seniority-cum-fitness, from amongst the Sub Divisional Officer, Assistant Engineer, Junior Engineer and Assistant Research Officers with at least 05 (five) years service as such and have passed the Professional Examination as prescribed in West Pakistan Buildings and Roads Code."

ATTESTED

MINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


8. The plea taken by the appellant is that no quota for promotion to BS-18 has been reserved for B.Tech (Hons.) Degree holder SDOs/Assistant

Engineers (BPS-17). He has given example of other works related departments of the provincial government where separate quota has been reserved for such category of engineers. Arguments and record presented before us show that prior to 2014, the employees in the C&W Department of provincial government, having B.Tech (Hons.) Degree, were deprived of any career progression. It was through a notification dated 14.10.2014 that an opportunity of promotion was afforded to different categories of engineers and they were promoted to the post of Sub-Divisional Officer/Assistant Engineer (BS-17) by assigning specific quota to every category. Initially 3.5% quota was reserved for employees holding degree of B.Tech (Hons.) but it was later on enhanced to 10% vide Notification dated 26.03.2018. Through the impugned notification, the provincial government has further provided an opportunity to the B.Tech (Hons) degree holders for their promotion to BS-18, which in our view is a positive step taken in the right direction.

9. It is an undisputed fact that making of rules for civil servants is an exclusive domain of the executive, which in the instant case is the Government of Khyber Pakhtunkhwa. In the light of the Constitution of Islamic Republic of Pakistan, there is trichotomy of powers; legislature has the power of making laws, executive is vested with the power of enforcing and implementing those laws whereas the judiciary interprets the laws. This trichotomy provides a balance in the affairs of the state. When the roles of every constituent are defined, then how can this Tribunal interfere in the domain of the provincial government?

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

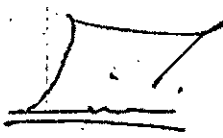


116

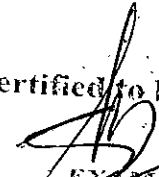
10 In view of the above discussion, the appeal in hand as well as connected appeals are dismissed. Costs shall follow the event. Consign.

11. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 15th of September, 2023.*


(FAREEHA PAUL)
Member (E)


(SALAH-UD-DIN)
Member (J)

Fazle Subhan, P.S

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar.

Date of Presentation of Application 23/4/24
Number of copies 87
Copy fee 400/-
Urgent S/B
Total 457/-
Name _____
Date of Receipt 23/4/24
Date of Payment 23/4/24