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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT D.I.KHAN.

Appeal No. 731/2015

Date of Institution ... 09.06.2015

Date of Decision ... 25.10.2017

Umar Khitab(Retired Office Assistant),
Office of OFWM Director HRD, D.I.Khan.

... (Appellant)

VERSUS

1. The Secretary Agriculture & Live Stock Peshawar,
and 3 others.

... (Respondents)

SYED NOMAN ALI SHAH BUKHARI,
Advocate

--- For appellant.

MR. FARHAJ SIKANDAR,
District Attorney

... For respondents

MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL

... MEMBER(Executive)
... MEMBER(Judicial)

JUDGMENT

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

FACTS

2. The brief facts are that the appellant was serving as Office Assistant and later on posted as Superintendent on 30.07.2010 in his own pay and scale. Though he was eligible for promotion against the said post but not considered in time for unknown reasons. That the appellant preferred departmental appeal on 11.02.2015, but was not responded within the stipulated period, hence, the instant service appeal.

ARGUMENTS

3. Learned counsel for the appellant argued that appellant stood at sr. no. 1 of the seniority list of Office Assistant circulated in 2014. He was appointed as Superintendent in own pay and scale vide order dated 03.07.2010. Working paper for promotion of the appellant against two available vacant posts of Superintendent was sent for placement before DPC meeting scheduled for 19.01.2015. Case of his promotion was not decided in time by the respondents, hence, delayed intentionally. Subsequently post was upgraded in 2014. Thereafter on reaching the age of superannuation the appellant got retired from service on 19.03.2015. He further contended that appellant was denied promotion by deferring the case on the pretext of amending the existing service rules after upgradation of post of Superintendent by the provincial government. According to promotion policy case of a civil servant can be deferred, if inter se-seniority is disputed/ subjudice, disciplinary proceedings are pending and PER is incomplete. Similarly, vide notification dated 17.02.2016 four Superintendents were promoted on regular basis except sr. no. 2 Mr. Hukam Khan, who was promoted w.e.f 02.12.2015 i.e date of retirement. It is a clear case of discrimination as enshrined in Article-25 of the constitution. Reliance was placed on case law as reported in 2007 PLC (C.S) 1267, 2009 PLC (C.S) 229, 2008 SCMR 1535, 1997 SCMR 515, 1985 SCMR 1158, 2006 SCMR 1938 and judgment of this Tribunal dated 31.08.2016 passed in service appeal no. 323/2015.

4. Learned District Attorney argued that the appellant became eligible for promotion as Superintendent in 2013. His promotion case was discussed in DPC meeting held on 17.04.2014 but deferred due to a dispute regarding two wings of the department. Again his case was placed before DPC on 19.01.2015 and deferred because as a result of general up-gradation of posts amendments were required in the services rules. On both the occasions his promotion case was deferred due valid justification highlighted above.

CONCLUSION.

5. Careful perusal of record would reveal that the appellant was eligible for promotion to the post of Superintendent against the available vacant posts. Promotion case of the appellant was not finalized in time and on reaching the age of superannuation he retired from service on 19.03.2015. Thereafter, the post of Superintendent was upgraded to BPS-17. Meeting of DPC was held on 09.01.2015 but case of promotion of Superintendents was deferred for making amendments in service rules due to general upgradation of posts in 2014. Amendments were required to be made in time but due to red tapism case was dragged/ delayed unnecessarily. It merits to mention there that promotion can only be deferred in case inter-se-seniority is disputed/subjudice, disciplinary proceedings are pending and PER is incomplete. Hence, promotion case of the appellant was not deferred on a valid ground and is also a serious departure from laid down procedure. Moreover, vide notification dated 17.02.2016 Mr. Hukum Khan was promoted to the post of Superintendent w.e.f 02.12.2015 i.e from the date of his retirement. It is established beyond doubt that the appellant eligible for promotion but his case was intentionally and deliberately delayed by the respondents on one pretext or the other. He became a victim of apathy, indifferent and casual attitude of respondents thus failed to get his due right in time.

6. As a sequel to above, we are constrained to accept the present appeal and direct the respondents to consider the case of the appellant for notional promotion to the post of Superintendent BPS-17 from the due date. Parties are left to bear their own costs. File be consigned to the record room.

Muhammad Hamid Mughal

(MUHAMMAD HAMID MUGHAL)
MEMBER

Ahmad Hassan

(AHMAD HASSAN)
MEMBER
CAMP COURT D.I.KHAN

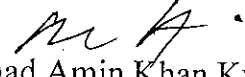
ANNOUNCED
25.10.2017

21.08.2017

None present for appellant. Mr. Farhaj Sikandar, District Attorney for respondents also present. Notice be issued against the appellant and his counsel for attendance. Adjourned. To come up for attendance and arguments on 25.10.2017 before D.B at Camp Court D.I.Khan.



(Ahmad Hassan)
Member



(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

Order

25.10.2017

Counsel for the appellant and Mr. Farkhaj Sikandar, District Attorney for respondents present. Arguments heard and record perused.

Vide detailed judgment of today of this Tribunal placed on file, we are constrained to accept the present appeal and direct the respondents to consider the case of the appellant for notional promotion to the post of Superintendent BPS-17 from the due date. Parties are left to bear their own costs. File be consigned to the record room.

Announced:
25.10.2017




(AHMAD HASSAN)
Member
Camp Court D.I.Khan



(MUHAMMAD HAMID MUGHAL)
Member

26.09.2016


Counsel for the appellant and Mr. Zahidullah, Deputy Director alongwith Mr. Farhaj Sikandar, Government Pleader for the respondents present. Learned Government Pleader requested for adjournment as he has not prepared the case. Request accepted. To come up for arguments on 26.12.2016 before D.B at Camp Court D.I.Khan.


Member


Member
Camp Court D.I.Khan


26.12.2016

Appellant in person and Mr. Javed Iqbal, Assistant Director alongwith Mr. Farhaj Sikandar, Government Pleader for the respondents present. Arguments could not be heard due to non-availability of learned counsel for the appellant as well as incomplete bench. To come up for arguments on 20.02.2017 before D.B at Camp Court D.I.Khan.


ASHFAQUE TAJ
MEMBER
Camp Court D.I.Khan

20.02.2017

Appellant in person and Mr. Zahidullah, Deputy Director alongwith Mr. Farhaj Sikandar, Government Pleader for respondents present. Due to non-availability of D.B arguments could not be heard. To come up for arguments on 25.04.2017 before D.B at Camp Court D.I.Khan.


(ASHFAQUE TAJ)
MEMBER
Camp Court D.I.Khan

25-12-17 *Order is hereby cancelled. Therefore the case is adjourned for the same on 21.8.17.*


Readu

26.01.2016

Counsel for the appellant and Mr. Farhaj Sikandar, GP for the respondents present. Counsel for the appellant requested for time to file rejoinder. To come up for rejoinder on 26.4.16 at camp court, D.I.Khan.


MEMBER
Camp Court, D.I.Khan

26.04.2016

Appellant in person and Mr. Zahidullah, Deputy Director Water Management alongwith Mr. Farhaj Sikandar, GP for respondents present. Rejoinder on behalf of the appellant submitted copy of which is placed on file. To come up for arguments on 26.09.2016 at camp court D.I. Khan.


Member
Camp Court D.I. Khan



27.07.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Office Assistant when posted as Office Superintendent on 30.7.2010 in his own pay scale. That he was entitled to promotion against the said post but not so promoted due to no fault of the appellant. That the appellant preferred departmental appeal on 11.2.2015 which was not responded and hence the instant service appeal on 9.6.2015.

That the appellant is entitled to notional promotion with effect from 2013 as the post was available during the said period and appellant entitled for consideration against the same.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 28.9.2015 at Camp Court D.I.Khan as the matter pertains to the territorial limits of D.I.Khan Division.


Chairman

28.09.2015

Appellant in person and Mr. Farhaj Sikandar, GP with Zahidullah, Deputy Director for the respondents present and requested for adjournment. Case to come up for written reply without fail on 24-11-15 at camp court, D.I.Khan.


MEMBER
Camp court, D.I.Khan

24.11.2015

Appellant in person and Mr. Farhaj Sikandar, GP with Zahidullah, Deputy Director for the respondents present and reply filed. Copy handed over to appellant. To come up for rejoinder at camp court D.I.Khan on

26-1-2015




MEMBER
Camp Court, D.I.Khan

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 731/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30.06.2015	<p>The appeal of Mr. Umar Khitab resubmitted today by Mr. Muhammad Asif Yousafzai Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR -</p>
2	2-7-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>03-7-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	03.07.2015	<p>None present for appellant. The appeal be relisted for preliminary hearing for 27.7.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Umar Khitab Retired Office Assistant Office of the OFWM Director HRD D.I.Khan received to-day i.e. on 09.06.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of extract of Service Book mentioned in para-1 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Copies of Working Papers for promotion mentioned in para-3 of the memo of appeal are not attached with the appeal which may be placed on it.

No. 910 /S.T,

Dt. 10/6 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. M.Asif Yousafzai Adv. Pesh.

Respected Sir

- 1) that the service book is written as deekly mistake but the actual word is seniority list which is corrected
- 2) copies of working papers mentioned in para-3 are shown on page 9 as Annexure-C



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 731 /2015

Umar Khitab.

VS

Agriculture Deptt:

INDEX.

S.NO	DOCUMENTS	ANNEXURE	PAGE
1-	Memo of appeal.	---	1 - 3
2-	Seniority list.	A	4 - 7
3-	Order dt. 30.07.2010	B	8
4-	Working papers.	C	9 - 11
5-	Jehanzeb retirement order.	D	12
6-	Appeal.	E	13
7-	Vakalat nama	--	14.

APPELLANT

THROUGH:


M.ASIF YOUSAFZAI ADVOCATE.

&


TAIMUR ALI KHAN ADVOCATE.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 731 /2015

K.P.F. Province
Service Tribunal
Diary No. 662
Dated 9-6-2015

Umar Khitab (Retired Office Asstt:)

Office of OFWM Director HRD,

D.I.Khan.....Appellant

VERSUS

- 1- The Secretary Agriculture & Live stock Peshawar.
- 2- The D.G On Farm Water Management KPK Peshawar.
- 3- The Director HRD OFWM D.I.Khan.
- 4- The Secretary Finance Deptt: KPK Peshawar.

.....Respondents.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT FOR DIRECTING THE RESPONDENTS TO CONSIDER THE APPELLANT FOR NOTIONAL PROMOTION TO THE POST OF SUPERINTENDENT BPS-17 FROM HIS DUE DATE AND AGAINST NOT TAKING ANY ACTION ON THE APPEAL OF APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS.

Filed to-day
9/6/15

PRAYER:

That on acceptance of this appeal the respondents may be directed to consider the appellant for notional promotion to the post of superintendent BPS-17 from his due date when the post was available and the appellant was eligible for that. The respondents may further please be directed to include the benefits of such promotion in his pensionary benefits with all back and consequential benefits/arrears. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of appellant.

Re-submitted to-day
and filed.
30/6/15

R.SHEWETH.

1. That the appellant joined the Deptt; in the year 1973 and lastly got promotion to the post of Office Asstt; in the year 2008. The appellant was having good record of service throughout his service career. All the dates are mentioned in the ~~Seniority list~~ the copy of which is already attached as Annexure – A.
2. That it is also worth to mention here that the appellant was at S.No.1 of the seniority list of Office Asstt: circulated in the year 2014. The appellant was also adjusted and worked as superintendant on Ops basis w.e.from 30.7.2010. Copies of seniority list and adjustment order are attached as Annexure – A & B.
3. That in the year 2014, working papers for promotion of appellant were sent to the DPC which was schedule for 19/01/2015. In the said papers it was clearly mentioned that two posts of superintendant are lying vacant due to transfer of Rahatullah to Accounts Officer post and retirement of Jehanzeb who retired in the year 2013. But as the respondent Deptt; has not carried out the process of promotion in time, therefore, the promotion of appellant was delayed till the new up gradation of posts in the year May,2014. Copies of working papers and retirement order of Jehanzeb are attached as Annexure – C & D.
4. That as the appellant remained deprived from the benefits of promotion, despite of availability of posts, therefore he, while in service, filed departmental appeal on 12.2.2015 and waited for statutory period but no reply has been received till date. It is also worth to mention here that in the mean while the appellant stood retire from service on 19.03.2015. Copy of appeal is attached as Annexure – E.
5. That now the appellant comes to this august Tribunal on the following rounds amongst the others.

GROUND:

- A- That not granting the promotion benefits to appellant from his due date and not taking any action on the departmental appeal of appellant is against the law, rules norms of justice and material on record, therefore not tenable.
- B- That the posts were available and the appellant was also senior most eligible person, but despite that the respondent Deptt; delayed the promotion process which amounts to penalizing the appellant for the fault of others.
- C- That the august Supreme Court of Pakistan has held in many cases that the poor officials cannot be punished for delayed promotion process of the Deptt; and the promotion should be granted from the date when the post was available for promotion quota. But such rulings of the superior Court has been violated by the respondents.
- D- That the appellant has not been dealt fairly and justly due to which the appellant has been kept deprived from the benefits of promotion in time. Thus appellant has been penalized for no fault on his part.
- E- That the respondents had deferred the case of promotion prior to the retirement of appellant, therefore now they are under legal obligation to consider the appellant for pro motion first.
- F- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.
- It is therefore most humbly prayed that the appeal of appellant may be accepted as prayed for.

APPELLANT

UMAR KHITAB

THROUGH:

M.ASIF YOUSAFZAI ADVOCATE.

&

TAIMUR ALI KHAN ADVOCATE.

A

(4)

**FINAL SENIORITY LIST OF MINISTERIAL STAFF OF ON FARM WATER MANAGEMENT DEPARTMENT WORKING IN
KHYBER PAKHTUNKHWA AS ON 30/06/2014**

Notification.

No. 4985-5011 /DG OFWM/Estt: dated Peshawar the 2-9- /2014

In pursuance of Section-8(1) of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989, final Seniority List of Ministerial Staff of On Farm Water Management as stood on 30/06/2014 is Notified / Circulated.

S. No	Name of officer with academic qualification	Date of Birth and domicile	Date of 1st entry into Govt. Service	Regular appointment/promotion to the present post			Present posting	Date of Retirement	Remarks
				Date	BPS	Methods of recruitment			
Accounts Officer/Assistant Director Admn (BS-17)									
1	Abdul Majid F.A	28/11/1954 Lakki Marwat	24/01/1974	15/6/2004	17	Promotion	Accounts Officer o/o Director General OFWM Khyber Pakhtunkhwa, Peshawar	27/11/2014	
2	Rashid Gul M.Sc	12/11/1959 Nowshera	1/7/1985	6/7/2010	17	Promotion	Assistant Director Admn o/o Director General OFWM Khber Pkahtunkhwa, Peshawar	11/11/2019	

Office Superintendent (BS-17)

S. No	Name of officer with academic qualification	Date of Birth and domicile	Date of 1st entry into Govt. Service	Regular appointment/promotion to the present post			Present posting	Date of Retirement	Remarks
				Date	BPS	Methods of recruitment			
1	Rahatullah B.A	3/04/1967 Peshawar	11/11/1989	1/2/2008	17	Promotion	Working against the post of Assistant Accounts Officer (BS-17) o/o Director General OFWM Khyber Pakhtunkhwa, Peshawar (OPS)	2/4/2027	
2	Rahat Shah M.Sc	25/6/1967 Nowshera	1/7/1990	1/2/2008	17	Promotion	Office Superintendent o/o Director General OFWM Khyber Pakhtunkhwa, Peshawar	24/6/2027	

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7

19	Sher Baz Mazari M.Com.	06/04/1978 Chitral	01/01/2009 District Govt 1/1/2013 Provincial Govt.	1/1/2013	16	By initial recruimtnet	Office Assistant O/O District Officer OFWM Chitral	05/04/2038	after segregation of Distt: Setup and relining the same with Admn. Agri: Deptt., he was included in seniority list of the department.
20	Adnan-Ullah MBA	05/03/1976 Bannu	23/06/2009 District Govt. 01/01/2013 Provincial Govt.	1/1/2013	16	By initial recruimtnet	Office Assistant O/O District Officer OFWM Bannu	4/3/2036	He was on the strength of Distt: Govt. and after segregation of Distt: Setup and relining the same with Admn. Agri: Deptt., he was included in seniority list of the department. Moreover his case is undertrail in Hon'ble Supreme of Pakistan
21	Imran Khan M.Sc	04/01/1985 Dir Lower	18/11/2009 District Govt. 1/1/2013 Provincial Govt.	1/1/2013	16	By initial recruimtnet	Office Assistant O/O District Director OFWM Dir Lower	3/1/2045	He was on the strength of Distt: Govt. and after segregation of Distt: Setup and relining the same with Admn. Agri: Department he was included in seniority list of the department.
22	Muhammad Iqbal BA	10/10/1978 Lakki Marwat	1/7/2011 District Govt. 1/1/2013 Provincial Govt.	1/1/2013	16	By initial recruimtnet	Office Assistant O/O District Director OFWM Lakki Marwat	9/10/2038	He was on the strength of Distt: Govt. and after segregation of Distt: Setup and relining the same with Admn. Agri: Deptt., he was included in seniority list of the department.
23	Inayat-ullah BBA (Hon) MA(IR)	01/02/1985 Shangla	04/01/2005 KPO 22/3/2011 Office Assistant District Govt. 1/1/2013 Provincial Govt.	1/1/2013	16	By initial recruimtnet	Office Assistant O/O District Officer OFWM Shangla	31/01/2035	He was on the strength of Distt: Govt. and after segregation of Distt: Setup and relining the same with Admn. Agri: Deptt., he was included in seniority list of the department.
24	Amin-Ur-Rehman M.Sc Computer Scinece	1/2/1987 Dir Upper	12/07/2011 District Govt: 1/1/2013 Provincial Govt.	1/1/2013	16	By initial recruimtnet	Office Assistant O/O District Officer OFWM Dir Upper	31/01/2047	He was on the strength of Distt: Govt. and after segregation of Distt: Setup and relining the same with Admn. Agri: Deptt., he was included in seniority list of the department.

ATTESTED
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Seniority List of Office Assistants (BS-16)

S.No	Name of officer with academic qualification	Date of Birth and domicile	Date of 1st entry into Govt. Service	Regular appointment/promotion to the present post			Present posting	Date of Retirement	Remarks
				Date	BPS	Methods of recruitment			
1	Umar Khatab Matric	20/3/1955 D.I.Khan	24/9/1973	01/02/2008	16	Promotion	working against the post of Office Superintendent (BS-16) in his own pay & scale O/O Director (HRD) Training Center D.I.Khan	19/03/2015	
2	Muhstaq Ahmad B.A	13/5/1958 Peshawar	22/02/1977	01/02/2008	16	Promotion	working against the post of Office Superintendent (BS-16) in his own pay & scale O/O District Director OFWM Peshawar	12/5/2018	
3	Nawalj Ali Matric	12/1/1958 Karak	10/9/1976	01/02/2008	16	Promotion	Office Assistant O/O District Officer OFWM Karak	11/1/2018	
4	Zahoor Ali Matric	12/12/1956 Charsadda	16/2/1978	01/02/2008	16	Promotion	Office Assistant O/O District Director OFWM Charsadda	11/12/2016	
5	Saifur-Rehman F.A	12/08/1957 D.I.Khan	7/6/1976 S/Cooli 20/2/79 J/C	01/06/2009	16	Promotion	Office Assistant O/O Director HRD Training Center D.I.Khan	11/6/2017	
6	Muhammad Anshar Matric	2/2/1957 Mansehra	10/5/1976 DHH 1/3/79 J/C	01/02/2008	16	Promotion	Office Assistant O/O District Officer OFWM Battagram	1/2/2017	
7	Amir Nawroz B.A	5/10/1959 Bannu	2/4/1979	01/02/2008	16	Promotion	Office Assistant O/O District Director OFWM D.I.Khan	4/10/2019	
8	Muhammad Ranizan B.A	13/10/1960 D.I.Khan	1/9/1980	01/02/2008	16	Promotion	Office Assistant O/O District Officer OFWM Hangu	12/10/2020	

ATTESTED

6

9	Muhammad Idrees B.A	1/5/1956 Haripur	13/9/1978 Helper 1/10/1980 J/C	01/02/2008	16	Promotion	Office Assistant O/O District Director OFWM Haripur	30/04/2016	
10	Abdul Mateen Matric	23/09/1960 Nowshera	3/11/1980	01/02/2008	16	Promotion	Office Assistant O/O District Officer OFWM Nowshera	22/09/2020	
11	Akbar Ali F.A	1/1/1961 Nowshera	17/12/1980	01/02/2008	16	Promotion	Office Assistant O/O DG OFWM Khyber Pakhtunkha, Peshawar	31/12/2020	
12	Tayab Gul M.A	12/12/1962 Nowshera	17/12/1980	01/02/2008	16	Promotion	Office Assistant O/O DG OFWM Khyber Pakhtunkha, Peshawar	11/12/2022	
13	Ghulam Farid Matric	17/9/1958 D.I.Khan	7/10/1978 Helper 1/1/1981 J/C	1/06/2009	16	Promotion	Office Assistant O/O District Officer OFWM Tank	16/9/2018	
14	Shakirullah F.A	10/2/1962 Peshawar	7/5/1981	1/6/2009	16	Promotion	Office Assistant O/O Director General OFWM Khyber Pakhtunkhwa, Peshawar	9/2/2022	
15	Shah Dauran F.A	3/3/1956 Swat	18/05/1981	1/1/2013	16	Promotion	Office Assistant O/O District Director OFWM Swat	2/3/2016	
16	Muhammad Saleem Matric	4/5/1963 Mansehra	11/7/1981	1/1/2013	16	Promotion	Office Assistant O/O District Director OFWM Mansehra	3/5/2023	
17	Maqbol Hussain Matric	17/2/1961 Nowshera	26/7/1981	1/1/2013	16	Promotion	Office Assistant O/O Director General OFWM Khyber Pakhtunkha, Peshawar	16/2/2021	
18	Mufti Mehmood B.A	12/12/1978 Kohistan	17/10/2008 District Govt. 1/1/2013 Provincial Govt.	1/1/2013	16	By initial recruitment	Office Assistant O/O District Officer OFWM Kohistan	11/12/2038	He was on the strength of Distt. Govt. and after segregation of Distt. Setup and relining the same with Admn. Agri. Deptt., he was included in seniority list of the department.

ATTESTED
A

B (8)

**DIRECTORATE GENERAL ON FARM WATER MANAGEMENT
KHYBER PAKHTUNKHWA, PESHAWAR**

OFFICE ORDER

The postings/transfers of the following officials of On Farm Water Management Department is hereby ordered with immediate effect in the interest of public service.

S.No	Name	Designation	From	To
1	Mr. Umar Khitab	Office Assistant (BS-14)	O/O District Officer OFWM Tank	O/O the Director (HRD) Water Management Training Center D.I.Khan against the vacant post of Office Superintendent (in his own pay & scale) ✓
2	Mr. Irshad-ul-Haq	Office Assistant (BS-14)	O/O the Director General OFWM Khyber Pakhtunkhwa, Peshawar	O/O the Director General OFWM Khyber Pakhtunkhwa, Peshawar against the vacant post of Office Superintendent (in his own pay & scale)
3	Mr. Mushtaq Ahmad	Office Assistant (BS-14)	O/O the Director General OFWM Khyber Pakhtunkhwa, Peshawar	O/O Deputy Director, Water Management, Peshawar against the vacant post of Office Superintendent (in his own pay & scale)

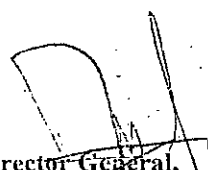
Sd/-
Director General,
On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar

No. 5888-96 /DG OFWM dated Peshawar the, 30/07 /2010.

Copy to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. ✓ Director (HRD) Water Management Training Center D.I.Khan.
3. Executive District Officer (Agri:) Peshawar.
4. Deputy Director Water Management Peshawar.
5. District Accounts Officer D.I.Khan, Tank.
6. Officials concerned.

For information and necessary action.


Director General,
On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar.

ATTACHED



9

**DIRECTORATE GENERAL ON FARM WATER MANAGEMENT
KHYBER PAKHTUNKHWA, PESHAWAR**

19 Jamrud Road, Opposite Islamia College, ATI Campus, Khyber Pakhtunkhwa, Peshawar
Ph 091-9216985 Fax 091-9216984

No. 8115 /DG/OFWM dated Peshawar the 1 /11 /2014.

To

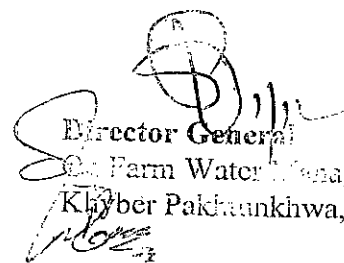
The Section Officer (Estt.)
Govt. of Khyber Pakhtunkhwa
Agriculture, L/Stock & Coop Department
Peshawar

Subject: - **WORKING PAPER FOR PROMOTION OF OFFICE ASSISTANTS TO THE
POST OF SUPERINTENDENT**

Memo,

Reference your letter No. SOE(AD)V-8/2013 dated 11-11-2014 on the subject cited above and to submit the para wise reply as under:-

1. Updated undisputed and final Seniority list is attached.
2. The post of Superintendent have been up-graded from BS-16 to BS-17 and amendment in the existing service rules is under process but it will take some time. The incumbent at S.No. 01 Mr. Umar Khitab proposed for promotion in the working paper is at the verge of retirement, therefore, it is requested that the promotion may please be made on sympathetic basis, so that he may get the benefit of promotion before retirement.


Director General
Farm Water Management
Khyber Pakhtunkhwa, Peshawar

ATTESTED

SUBJECT:- MINUTES OF THE DEPARTMENT PROMOTION COMMITTEE MEETING HELD ON 19.01.2015

A meeting of the departmental Promotion Committee was held on 19/01/2015 in the office of Secretary Agriculture, Livestock and Cooperative Department. The following attended the meeting:

- i. Mr. Muhammad Humayun Khan
Secretary, Agriculture Chairman
- ii. Mr. Basir Khan Wazir,
Deputy Secretary-Admn:
Agriculture Department Member
- iii. Mr. Khurshid Afridi
Director HQ, OFWM,
Khyber Pakhtunkhwa Peshawar Member
- iv. Mr. Irfanullah Wazir,
Deputy Secretary,
Finance Department Member
- v. Mr. Shafi-ul-Ahmad
Section Officer (R-III),
Establishment Department Member

2. The meeting started with the recitation of a few verses from the Holy Quran. The Hon'ble Secretary Agriculture/Chairman welcomed the participant of the meeting. The following cases of promotion of the Agriculture Engineering Department were discussed.

i. PROMOTION OF OFFICE ASSISTANT TO THE POST OF SUPERINTENDENT BS-17 IN WATER MANAGEMENT DEPARTMENT OF AGRICULTURE DEPARTMENT KHYBER PAKHTUNKHWA.

It was made clear during the explanation of working paper that two posts (02) of Superintendents (BS-17) are lying vacant in the Water Management Department due to the retirement of Mr. Jehanzeb Khan and the transfer of Mr. Rahatullah to the post of Assistant Accounts Officer (BS-17). As per Service rules these posts are to be filled on from Office Assistants (90% quota and Stenographers 10% quota).

However after upgradation of the Ministerial staff the provincial government in June, 2014, the Service Rules are not yet amended. Therefore, the promotion case was deferred till finalization of the amendments in the existing service rules.

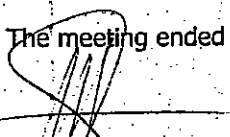
2. PROMOTION OF SUPERINTENDENTS (BS-17) TO THE POST OF ACCOUNTS OFFICER (BS-17) IN ON FARM WATER MANAGEMENT DEPARTMENT

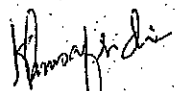
It was explained that at present three (03) numbers of posts of Accounts Officer (BS-17) are lying vacant which are to be on "by promotion on the basis of seniority-cum-fitness from amongst the Administrative Officers/Superintendents with at least 05 years service as such.

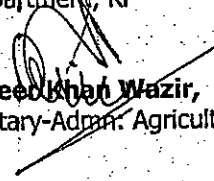
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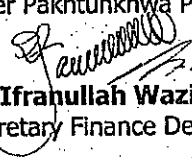
After upgradation of the Ministerial staff by the Provincial Government in June, 2014, the Service Rules are not yet amended. Therefore, the DPC deferred the promotion case till finalization of the amendments in the existing service rules.

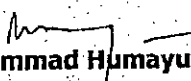
The meeting ended with a vote of thanks to and from the Chairman.


Mr. Shafiq Ahmad
Section Officer (R-III),
Estt: Department, KP


Mr. Khurshid Afrid
Director HQ, OFWM,
Khyber Pakhtunkhwa Peshawar


Mr. Baseed Khan Wazir,
Deputy Secretary-Admin. Agriculture


Mr. Irfanullah Wazir
Deputy Secretary Finance Department


Mr. Muhammad Humayun Khan,
Secretary Agriculture, Livestock and Cooperative Department,
Khyber Pakhtunkhwa

ATTACHED
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**DIRECTORATE GENERAL ON FARM WATER MANAGEMENT
KHYBER PAKHTUNKHWA, PESHAWAR**

OFFICE ORDER


Mr. Jehan Zeb Khan Office Superintendent BS-16 office of the Director General On Farm Water Management Khyber Pakhtunkhwa Peshawar is hereby retired from service w.e.f 20/12/2013 (A.N) on attaining the age of superannuation (60 years).

Sanction is hereby accorded to the encashment of leave pay for maximum of 365 days (Three Hundred & Sixty Five days only) in lump-sum in lieu of L.P.R as admissible under the leave Rule-20 of Khyber Pakhtunkhwa Civil Servants Revised Leave Rules-1981 (instructions issued there-under from time to time).

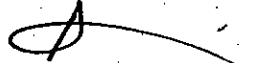
Sd/xx
Director General,
On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar.

No. 7004-07 / DG OFWM dated Peshawar the 30/12 / 2013.
Copy to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Section Officer (Estab), Govt: of Khyber Pakhtunkhwa, Agriculture, L/Stock & Coop: Department Peshawar.
3. Director H.Q of this office.
4. Officer concerned.


Director General,
On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar.

ATTESTED



عزت مآب جناب سیکرٹری ایگریکلچر گورنمنٹ آف خیبر پختونخواہ پشاور

بوساطت ڈائریکٹر (HRD) آن فارم واٹر مینجمنٹ ٹریننگ سینٹر ڈیرہ اسماعیل خان

مضمون: اپیل برائے سکیل 16 سے 17

جناب عالی!

انتہائی مودبانہ التماس ہے کہ بندہ چند گزارشات آنجناب کے گوش گزار کرنا چاہتا ہے۔ امید ہے کہ آنجناب اپنے قیمتی وقت میں سے کچھ وقت نکال کر میری درخواست پر ہمدردانہ غور فرمائیں گے۔

جناب عالی! بندہ مورخہ 2008ء کو ترقی پر آفس اسٹنٹ بنا اور ڈسٹرکٹ ٹانک میں ڈیوٹی سرانجام دیتا رہا۔ یہ کہ بندہ کو مورخہ

30/07/2010 کو بحوالہ ڈائریکٹر جنرل آن فارم واٹر مینجمنٹ خیبر پختونخواہ پشاور آفس آرڈر نمبر 96/DG-5888 مورخہ 30/07/2010

کو سناریائی کی بنیاد پر آفس سپرنٹنڈنٹ دفتر ڈائریکٹر (HRD) آن فارم واٹر مینجمنٹ ٹریننگ سینٹر ڈیرہ اسماعیل خان تبدیل کر دیا گیا اور بندہ اسی خالی پوسٹ پر سپرنٹنڈنٹ کی حیثیت سے تنخواہ لے رہا ہے۔ (آرڈر کی فوٹوکاپی ساتھ منسلک ہے)۔

یہ کہ خیبر پختونخواہ حکومت نے 2014ء میں سپرنٹنڈنٹ کو سکیل 16 سے 17 سکیل کا اعلان کیا ہے۔ جسکی بنیاد پر میرا کیس ڈائریکٹر جنرل

آن فارم واٹر مینجمنٹ پشاور نے سیکرٹری زراعت پاس سکیل 16 سے 17 کے لیے بھیجا ہے بحوالہ لیٹر نمبر 8115/DG مورخہ 01/12/2014

جناب عالی! بندہ نے مورخہ 19/03/2015 کے ریٹائرمنٹ پر جانا ہے اور بندہ کی سکیل کے لیے کوئی شنوائی نہیں ہو رہی۔ نہ

ہی کوئی دلچسپی لے رہا ہے۔ حالانکہ میرے سے پہلے جہانزیب آفس اسٹنٹ چار سده جب ریٹائرمنٹ پر جا رہا تھا تو اس کو پروموشن دے دیا گیا

اور وہ اسی میں ریٹائرڈ ہوا تھا لیکن میرا بہت تھوڑا عرصہ رہ رہا ہے۔ مجھے میرا حق نہیں دیا جا رہا ہے۔ میری سناریائی لسٹ کی فوٹوکاپی ساتھ منسلک ہے۔

لہذا میری آپ جناب سے دست بستہ عرض ہے میری آخری سروس کو دیکھا جائے کہ میں نے ساری عمر اس محکمہ کی خدمت کی ہے اور مجھے

اپنا حق نہیں مل رہا۔ مہربانی کر کے میرے اپیل اور درخواست پر ہمدردانہ غور آپ فرمائیں اور میری داد رسی فرمائیں۔ تاکہ بندہ کو آخری عمر میں

BPS-17 مل سکے۔ میں تا عمر آپ کو اور آپ کے بچوں کو دعاؤں میں دوں گا۔

آپ کا خادم

۱۱.۲.۱۵
۱۱.۵.۱۵ = ۹۵/۳
۱۵-۶-۱۵ = ۵.۲

العارض

عمر خطاب آفس اسٹنٹ دفتر ڈائریکٹر (ایچ آر ڈی) آن فارم واٹر مینجمنٹ ٹریننگ سینٹر ڈیرہ اسماعیل خان

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S.No.
020-5/HRD.
dt: 11.2.2015

VAKALAT NAMA

Appeal NO. 731 /2015

IN THE COURT OF Service Tribunal Peshawar.

Umar Khitab (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Agriculture Dept. (Respondent)
(Defendant)

I/We Umar Khitab (Appellant).

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar,** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

UKH
(CLIENT)

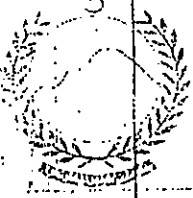
ACCEPTED

M. Asif Yousafzai
M. ASIF YOUSAFZAI
Advocate

Taimur Ali Khan
TAIMUR ALI KHAN
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph:091-2211391-
0333-9103240



GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Dated Peshawar, the February 17, 2016

NOTIFICATION.

NO. SOE (AD)/V-8/2015/WM.- On the recommendation of Departmental Promotion Committee, the competent authority is pleased to promote the following Office Assistants (BS-16) for promotion to the post of Superintendent (BS-17) on regular basis in their respective department as mentioned against each with immediate effect, except the official at Sr.No.2 with effect from 21.10.2015 (i.e. date of DPC) in terms of provision contained in Establishment Department's circular letter, dated 2nd September, 2004, as the official proceeded on retirement with effect from 02.12.2015 on attaining the age of superannuation. They will be on probation for a period one year extendable for another year:

Sr.No.	Name of official	Department
1.	Mr. Mushtaq Ahmad	On Farm Water Management Department
2.	Mr. Hukam Khan	Agriculture Engineering Department
3.	Mr. Abdul Latif	-do-
4.	Mr. Nasrullah	-do-

2. On their promotion, the following postings/transfers are hereby ordered:-

S.No.	Name of officer	From	To
1.	Mr. Mushtaq Ahmad (BS-17)	Office of the District Director, On-farm Water Management, Peshawar.	Superintendent (BS-17) office of the District Director, OFWM Peshawar against vacant post.
2.	Mr. Hukam Khan (BS-17)	Directorate of Agricultural Engineering, Khyber Pakhtunkhwa Peshawar.	Assistant Director Planning (BS-17) office of the Director, Agriculture Engineering, HQ, Peshawar against vacant post for the purpose of drawl of pension emoluments etc.
3.	Mr. Abdul Latif	Directorate of Agricultural Engineering, Khyber Pakhtunkhwa Peshawar.	Superintendent (BS-17) office of the Agriculture Engineer, Malakand at Batkhela against vacant post.
4.	Mr. Nasrullah Khan	Office of the Agricultural Engineer, Kohat.	Superintendent (BS-17) office of the Agricultural Engineer, Kohat against vacant post.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
AGRICULTURE, L/STOCK AND COOP. DEPTT:

Enclst. of even No. & Date.

Copy forwarded for information and necessary action to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, On Farm Water Management, KP Peshawar.
3. The Director, Agriculture Engineering, Khyber Pakhtunkhwa Peshawar.
4. The District Accounts Officers, Malakand and Kohat.
5. Officers concerned.
6. PS to Minister for Agriculture, Khyber Pakhtunkhwa.
7. PS to Secretary Agriculture.
8. Master file.

(Dr. Mir Ahmad Khan)
SECTION OFFICER-ESTT:

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

In the matter of Service Appeal No. 731 of 2015.

Umar Khitab Office Assistant o/o Director (HRD) On Farm Water Management Training Center DIKhan.

.....Appellant

VERSUS

1. The Secretary Agriculture & Livestock Peshawar.
2. The Director General On Farm Water Management Khyber Pakhtunkhwa Peshawar.
3. The Director (HRD) On Farm Water Management Training Center DIKhan.
4. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

COMMENTS OF THE APPEAL ON BEHALF OF RESPONDENTS No 1, 2,3 & 4

Respectfully Shewith

Preliminary Objections

1. That the appellant have no cause of action and locus standi to file the present appeal.
2. That the appeal is not maintainable & incompetent in the eyes of law in its present form.
3. That the appellant can't claim promotion as a vested right.
4. That the appellant estopped by his own conduct to file the appeal.
5. That the appellant has not come to the tribunal with clean hands and suppressed material facts.
6. That the appellant concealed material facts from this tribunal.
7. That the appeal is badly time bared.

Reply

1. Pertains to record.
2. Pertains to record.
3. The brief history of the case is that Mr. Umar Khitab was promoted as Office Assistant (BS-14) on 01-02-2008 & posted in office of the Director (HRD) On Farm Water Management Training Center DIKhan. According to the existing Service Rules of the department the method of the recruitment to the post of Superintendent is prescribed as (Annex-A):

- a) Ninety percent by promotion, on the basis of Seniority-cum-fitness from amongst the Office Assistant, with five years service as such".
- b) Ten percent by promotion, on the basis of seniority-cum-fitness from amongst the Senior Scale Stenographer with three years service as such".

The appellant (Mr. Umar Khitab) was promoted to the post of Office Assistant in the year 2008 therefore, as per approved Service Rules of the department he

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become eligible for promotion to the post of Superintendent in 2013. After retirement of Mr. Jehanzeb Khan Superintendent on 20-12-2013 the promotion case of Mr. Umer Khitab was submitted to Administrative department for consideration of Departmental Promotion Committee. The meeting of the Departmental Promotion Committee (DPC) was held on 17-4-2014 but postpone his promotion case with the remarks that "the subject promotions is also that ministerial staff whose dispute regarding separation of seniority list of Agriculture Engineering wing and On Farm Water Management wing is under process. therefore, the DPC unanimously decided to postpone the subject promotion till the separation of their seniority is decided" (Annex-B). After separation of seniority between On Farm Water Management & Agriculture Engineering wings of Agriculture Department vide notification (Copy attached Annex-C) in June, 2014 the promotion case of Mr. Umar Khitab was again submitted for consideration of DPC and its meeting was held on 19-1-2015 but the DPC again deferred the promotion case with the remarks that "After up gradation of the Ministerial Staff by the Provincial Government in June, 2014, the service rules are not yet amended. Therefore, the DPC deferred the promotion case till finalization of the amendments in the existing service rules" (Annex-D).

4. In correct, on the appeal of Mr. Umar Khitab his promotion case was again submitted to the competent authority for consideration of DPC but the same was returned with the remarks that the promotion case of Assistant to the post of Superintendent has already deferred by the DPC in its meeting held on 19/1/2015 therefore, the competent authority is pleased to file the case (Annex-E). Therefore, the plea of the petitioner that he waited for statutory period but no reply has been received till date on his appeal is incorrect and out of place.

Grounds

- A. The promotion case of the appellant was considered by the Departmental Promotion Committee well in time but deferred with some cogent reasons, therefore, the plea of the appellant that not taking any action on the departmental appeal of the appellant is incorrect.
- B. Incorrect, the department processed the promotion case of the appellant well in time and the matter of promotion of the appellant considered twice by the DPC but deferred with some cogent reasons. Therefore, his plea that the respondent department delayed the promotion process is out of place and not based on facts.
- C. No comments.
- D. The plea of the appellant that he has not been dealt fairly and justly and kept deprived from the benefit of the promotion is not based on facts due to the

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Amir Ghosh
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reasons explained above.

- E. The promotion case of the appellant was considered by the DPC and deferred with some cogent reasons, therefore, the plea of the appellant that the respondents are under legal obligations to considered the appellant for promotion first is against the law, rules & material on record.

It is therefore most humbly prayed that the appeal may kindly be dismissed in the best interest of the public service as no fundamental rights have been violated and the appellant is not discriminated in any way.



Secretary

Government of Khyber Pakhtunkhwa,
Agri: L/Stock & Coop: Deptt: Peshawar
(Respondent No.1)


Director General

On Farm Water Management
Khyber Pakhtunkhwa, Peshawar
(Respondent No.2)


Secretary

Government of Khyber Pakhtunkhwa,
Finance Department
(Respondent No. 4) 


Director (HRD)

On Farm Water Management
Training Center DIKhan
(Respondent No. 3)



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GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Peshawar, dated the April 29, 2014

NOTIFICATION

No. SOE(AD)2(2)129/2011.- In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all notifications issued in this behalf, the Agriculture, Livestock and Cooperation Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in column 3 to 5 of the appendix to this Notification, which shall be applicable to the posts mentioned in column 2 of the said Appendix in the On Farm Water Management Wing of the Agriculture Department.

Sl. #	Nomenclature	Minimum Qualification for Initial Recruitment 3	Age for Initial Recruitment 4	Method of Recruitment 5
1	2 Director General On Farm Water Management (BPS-20)			By selection on merit from amongst the three senior most BPS-19 officers of On Farm Water Management with at least five years service in BPS-19 or seventeen years service in BPS-17 and above.
2	Director/ District Director (BPS-19)			By promotion, on the basis of seniority-cum-fitness, from amongst the Deputy Director & District Officers with seven years service as such or at least twelve years service in BPS-17 and above in On Farm Water Management.
3	Deputy Director/ District Officer (BPS-18)			By promotion, on the basis of seniority-cum-fitness from amongst the Assistant Directors & Water Management Officers with at least five years service as such
4	Assistant Director/ Water Management Officer (BPS-17)	i) At least 2 nd class B.Sc. Agriculture Engineering Degree from a recognized university or ii) at least 2 nd class B.Sc (Hons) Agriculture Degree with specialization in Water Management or Water Resource Management, from a recognized university	21-32 years	(a) Twenty percent by promotion on the basis of seniority-cum-fitness, from amongst the Sr. Engineers with at least ten (10) years service as such; and (b) eight percent by initial recruitment.

5	Geographic Information Specialist (BPS-17)	<p>i) At least 2nd class Master's Degree in Geographic Information System & Remote Sensing, from a recognized University; or</p> <p>ii) At least 2nd class Master Degree in Computer Science or Geography from a recognized university with one year diploma in Geographic Information System and Remote Sensing, from recognized university or institute</p>	21-32 years	By initial recruitment.
6	Geography Information System Analyst (BPS-17)	<p>i) At least 2nd class Master Degree in Geographic Information System and Remote Sensing, from a recognized University or Institute; or</p> <p>ii) at least 2nd class B.Sc Degree from a recognized University, in Computer Science, Mathematics, Statistics, Physics or Geography as one of the subject with one year diploma in Geographic Information System from a recognized University or Institute.</p>	21-32 years	By Initial recruitment.
7	Accounts Officer/ Assistant Director-Admn: (BPS-17)			By promotion, on the basis of seniority-cum-fitness, from amongst the Administrative Officers & Superintendents, with at least five years service as such.
8	Administrative Officer/ Superintendent (BPS-16)			<p>(a) Ninety percent by promotion, on the basis of seniority-cum-fitness, from amongst the Office Assistants, with five years service as such; and</p> <p>(b) ten percent by promotion on the basis of seniority-cum-fitness from amongst Senior Scale Stenographers with three years service as such.</p>
9	Senior Scale			By promotion on the basis of seniority-cum-fitness from Senior Scale

10	Junior Scale Stenographer (BPS-14)	(i) At least 2 nd class Intermediate or equivalent qualification from a recognized Board; (ii) A speed of fifty (50) words per minutes in English short hand and thirty five (35) words per minute in typing; and (iii) Knowledge of Computer using MS Word and MS Excel	18-30year	By Initial Recruitment
11	Office Assistant (BPS-14)	At least 2 nd Class Bachelor's Degree, from a recognized University.	20-30 years	(a) Seventy five percent by promotion, on the basis of seniority-cum-fitness from amongst the Senior Clerks with at least three years service as such; and (b) twenty five percent by initial recruitment
12	Sub-Engineer (BPS-11)	At least 2 nd class Secondary School Certificate, from a recognized Board with three years Diploma of Associate Engineers in 2 nd Division from a recognized institute in the relevant technology.	18-30 years	By Initial recruitment
13	Foreman (BPS-11)	At least 2 nd Class Secondary School Certificate from a recognized board with five years experience as Mechanic in a Workshop or having one year certificate of Auto Engineering from a recognized Technical Training Centre.	18-30 years	(a) Fifty percent by promotion, on the basis of seniority-cum-fitness from amongst the Mechanics, with at least five years service as such; and (b) fifty percent by Initial recruitment
14	Draftsman (BPS-11)	(i) At least 2 nd Class Secondary School Certificate, from a recognized Board; (ii) One year Diploma in Draftsmanship in relevant trade from a recognized Institute	18-30 years	(a) Fifty percent by promotion, on the basis of seniority cum fitness from amongst the Tracers, with at least five years service as such; and (b) Fifty percent by initial recruitment
15	Computer Operator (BPS-12)	(i) At least 2 nd class Bachelor degree from a recognized university; and (ii) one year diploma in Information	18-30 years	By Initial recruitment

16	Senior Clerk (BPS-09)			by promotion, on the basis of seniority-cum-fitness from amongst the Junior Clerks with at least two years service as such.
17	Junior Clerk (BPS-07)	(i) At least 2 nd class Secondary School Certificate or equivalent qualification from a recognized board; and (ii) a speed of thirty (30) words per minute in typing	18-30 years	(a) twenty five percent by pro on the basis of seniority-cum-fitness, from amongst the Daftries, with two years service as such; and (b) Seventy five percent by initial recruitment
18	Mechanic (BPS-07)	(i) At least 2 nd class Secondary School Certificate, from a recognized Board, with three year experience of diesel or petrol engine overhauling in a Workshop OR ii) at least 2 nd class Secondary School Certificate, from a recognized Board, with certificate of Auto Mechanic from a recognized technical training centre.	18-30 years	By Initial recruitment
19	Field Assistant (BPS-06)	(i) At least 2 nd class Secondary School Certificate or equivalent qualification from a recognized board and (ii) Two year training course from Agriculture Training Institute.	18-30 years	By Initial recruitment
20	Senior Store Keeper (BPS-06)			By Promotion, on the basis seniority-cum-fitness, from amongst the Junior Store Keeper with at least two years service as such.
21	Junior Store Keeper (BPS-05)	At least 2 nd class Secondary School Certificate or equivalent qualification from a recognized board	18-30 years	By Initial Recruitment.
22	Tracer (BPS-05)	At least 2 nd class Secondary School Certificate or equivalent qualification from a recognized board	18-30 years	By Initial recruitment
23	Tractor Operator (BPS-05)	(i) At least 2 nd class Secondary	18-40 years	By initial recruitment

		(ii) With two years experience in Tractor driving, having a valid tractor driving license.		
24	Vehicle Driver (BPS-04)	At least Middle in 2 nd division	18-40 years	By Initial recruitment
25	Daftari (BPS-02)			By promotion, on the basis of seniority-cum-fitness, from amongst the Naib Qasid, Rodman, Helper, Tractor Cleaner, Chowkidar & Mali having Secondary School Certificate with five years service as such.
26	Naib Qasid (BPS-01)	At least Middle in 2 nd division	18-30 years	By Initial recruitment
27	Rodman (BPS-01)	At least Middle in 2 nd division	18-30 years	By Initial recruitment
28	Helper (BPS-01)	At least Middle in 2 nd division	18-30 years	By Initial recruitment
29	Tractor Cleaner (BPS-01)	At least Middle in 2 nd division	18-30 years	By Initial recruitment
30	Chowkidar (BPS-01)	At least Middle in 2 nd division	18-30 years	By Initial recruitment
31	Mali (BPS-01)	Literate	18-30 years	By Initial recruitment
32	Sweeper (BPS-01)	Literate	18-30 years	By Initial recruitment

SD/-
**SECRETARY TO
 GOVERNMENT OF KHYBER PAKHTUNKHWA,
 AGRICULTURE LIVESTOCK AND COOPERATIVE
 DEPARTMENT**

Copy forwarded for information and necessary action to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa Finance Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa Law Department.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The Director General, On Farm Water Management, Khyber Pakhtunkhwa.
6. The Secretary to Governor, Khyber Pakhtunkhwa.
7. The PSO to Chief Minister, Khyber Pakhtunkhwa.
8. The PSO to Chief Secretary, Khyber Pakhtunkhwa.
9. The PS to Additional Chief Secretary, FATA, Warsak Road, Peshawar.
10. The PS to Minister for Agriculture, Khyber Pakhtunkhwa.
12. The Manager Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar. He is requested that printed (preferable gazette) copies of the notification as and when published may be furnished to this Department, E&A and Law Department along with details of gazette in which is published.
13. P.S to Secretary Agriculture.
14. P.A to Deputy Secretary-Admn: Agriculture Department.


(DAULAT KHAN)
 SECTION OFFICER-ESTT:

MINUTES OF THE DEPARTMENT PROMOTION COMMITTEE MEETING
Held on 17.4.2014

A meeting of the departmental Promotion Committee was held on 17/4/2014 at 10:00 AM. The following attended the meeting:

- i. Mr. Habibullah Zaidi
Secretary, Agriculture Chairman
- ii. Mr. Khaista Rehman
Deputy Secretary (Admn),
Agriculture Department Secretary
- iii. Mr. Shaukatullah Khan
Director Soil Conservation,
Khyber Pakhtunkhwa Peshawar Member
- iv. Mr. Aminullah
Dy. Registrar, Cooperative Societies Deptt: Member
- v. Mr. Shafi-ul-Ahmad
Section Officer (R-III),
Establishment Department Member
- vi. Mr. Wazir Muhammad Aghar,
Section Officer (SR-I),
Finance Department Member
- vii. Sahibzada Alamgir,
Director HQ,
On Farm Water Management,
Khyber Pakhtunkhwa Peshawar Member

The meeting started from recitation of few verses from the Holy Quran. The Chair welcomed the participant of the meeting and the following cases of promotion were discussed.

PROMOTION OF JUNIOR SCALE STENOGRAPHERS (BS-14) TO THE POST OF SENIOR SCALE STENOGRAPHER (BS-16) IN THE AGRICULTURE ENGINEERING AND WATER MANAGEMENT WINGS OF AGRICULTURE DEPARTMENT.

The Section Officer (Estt:) Agriculture Department explained the working paper and told the members of DPC that one post of Senior Scale Stenographer is being vacant in Water Management Department which may be filled from amongst the Junior Scale Stenographers "by promotion on the basis of Seniority cum fitness". A list of two Junior Scale Stenographers was presented for promotion; it was observed that the seniority list is already notified.

The Departmental Promotion Committee asked the representative of the Department to provide service rules. However the service rules provided were not complete. In the span of a day, the requisite service rules were provided.

The Departmental Promotion Committee unanimously recommended the promotion of M/s. Vigar Ali Shah Junior Scale Stenographer (BPS-14) to the post of Senior Scale Stenographer (BPS-16).

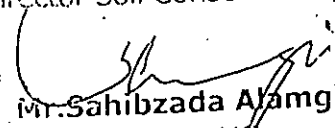
ii. PROMOTION OF OFFICE ASSISTANT (BS-14) TO THE POST OF OFFICE SUPERINTENDENT (BS-16) IN ON FARM WATER MANAGEMENT WING OF AGRICULTURE DEPARTMENT.

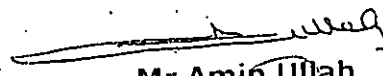
The subject promotions is also that of Ministerial Staff whose dispute regarding separation of seniority lists of Agriculture Engineering Wing and On Farm Water Management wing is under process. Therefore the DPC unanimously decided to postpone the subject promotion till the separation of their seniority is decided

The meeting came to conclusion with a vote of thanks to and from the Chairman:

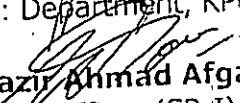

Mr. Khaista Rehman,
Deputy Secretary-Admin: Agriculture

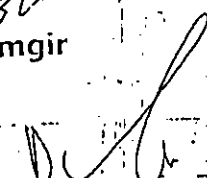

Mr. Shaikat Ullah,
Director Soil Conservation, KP


Mr. Sahibzada Alamgir
Director HQ,
OFWM, KP


Mr. Amin Ullah
Dy. Registrar Cooperative Society, KP


Mr. Shafiq Ahmad
Section Officer (R-III),
Estt: Department, KP


Mr. Wazir Ahmad Afsar,
Section Officer (SR-I),
Finance Department, KP


Mr. Hussain Zada Khan,
Secretary Agriculture, Livestock and Cooperative Department,
Khyber Pakhtunkhwa



AM/177-2

GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Dated Peshawar, the June 10, 2014

NOTIFICATION.

NO. SOE (AD)V-8/2013.- The Competent Authority is pleased to separate the seniority of ministerial staff of On Farm Water Management and Agriculture Engineering Wings of Agriculture Department as per minutes of the meeting held on 28.4.2014 under the Chairmanship of Special Secretary Agriculture on the following terms and conditions:

- i. The ministerial staff shall continue to work in their respective department (present place of posting) and hence forth the seniority be considered as separated and none of the staff will claim its right in the join seniority in future.
- ii. Both the departments will notify their separate seniority lists of ministerial staff immediately under intimation to Administrative Department after fulfilling the codal formalities.
- iii. The Director Agriculture Engineering will hand over all the relevant servile record and CR Dossiers of staff in OFWM to the OFWM Department so that the promotion cases could be processed accordingly.

Sd/x
SECRETARY AGRICULTURE

Endst. of even No. & Date.

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. DG, OFWM, Khyber Pakhtunkhwa, Peshawar.
3. Director Agriculture Engineering, Khyber Pakhtunkhwa.
4. PS to Secretary Agriculture.
5. PS to Special Secretary, Agriculture.
6. PA to Addl: Secretary, Agriculture.
7. PA to Chief Planning Officer, Agriculture Department.
8. PA to DS (Admn:), Agriculture Department.
9. Officials concerned.

Adm/ Officer

For Immediate n/a

(Signature)

E. ASSAL:PR

(Signature)
(DAULAT KHAN)
SECTION OFFICER-ESTT.

Appendix - D

SUBJECT:- MINUTES OF THE DEPARTMENT PROMOTION COMMITTEE HELD ON 19.01.2015

A meeting of the departmental Promotion Committee was held on 19/01/2015 in the office of Secretary Agriculture, Livestock and Cooperative Department. The following attended the meeting:

- i. Mr. Muhammad Humayun Khan
Secretary, Agriculture Chairman
- ii. Mr. Basir Khan Wazir,
Deputy Secretary-Admn:
Agriculture Department Member
- iii. Mr. Khurshid Afridi
Director HQ, OFWM,
Khyber Pakhtunkhwa Peshawar, Member
- iv. Mr. Irfanullah Wazir,
Deputy Secretary,
Finance Department Member
- v. Mr. Shafi-ul-Ahmad
Section Officer (R-III),
Establishment Department Member

2. The meeting started with the recitation of a few verses from the Holy Quran. The Hon'ble Secretary Agriculture/Chairman welcomed the participant of the meeting. The following cases of promotion of the Agriculture Engineering Department were discussed.

i. PROMOTION OF OFFICE ASSISTANT TO THE POST OF SUPERINTENDENT BS-17 IN WATER MANAGEMENT DEPARTMENT OF AGRICULTURE DEPARTMENT KHYBER PAKHTUNKHWA.

It was made clear during the explanation of working paper that two posts (02) of Superintendents (BS-17) are lying vacant in the Water Management Department due to the retirement of Mr. Jehanzeb Khan and the transfer of Mr. Rahatullah to the post of Assistant Accounts Officer (BS-17). As per Service rules these posts are to be filled on from Office Assistants (90% quota and Stenographers 10% quota).

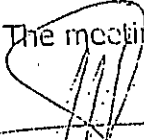
However after upgradation of the Ministerial staff the provincial government in June, 2014, the Service Rules are not yet amended. Therefore, the promotion case was deferred till finalization of the amendments in the existing service rules.

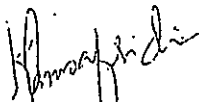
2. PROMOTION OF SUPERINTENDENTS (BS-17) TO THE POST OF ACCOUNTS OFFICER (BS-17) IN ON FARM WATER MANAGEMENT DEPARTMENT

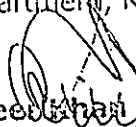
It was explained that at present three (03) numbers of posts of Accounts Officer (BS-17) are lying vacant which are to be on "by promotion on the basis of seniority-cum-fitness from amongst the Administrative Officers/Superintendents with at least 05 years service as such.

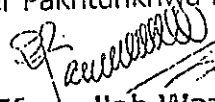
After upgradation of the Ministerial staff by the Provincial Government in June, 2014, the Service Rules are not yet amended. Therefore, the DPC deferred the promotion case till finalization of the amendments in the existing service rules.

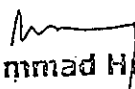
The meeting ended with a vote of thanks to and from the Chairman.


Mr. Shafiqul Ahmad
Section Officer (R-III),
Estt: Department, KP


Mr. Khurshid Afridi
Director HQ, OFWM,
Khyber Pakhtunkhwa Peshawar


Mr. Baseed Khan Wazir,
Deputy Secretary-Admin. Agriculture


Mr. Iftanullah Wazir
Deputy Secretary Finance Department


Mr. Muhammad Humayun Khan,
Secretary Agriculture, Livestock and Cooperative Department,
Khyber Pakhtunkhwa

ANNEX-E



GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

NO.SOE(AD)V-8/2011
Dated Peshawar, the March 31, 2015

To

The Director General,
On Farm Water Management,
Khyber Pakhtunkhwa Peshawar

SUBJECT:- PROMOTION OF OFFICE ASSISTANT BS-16 AND STENOGRAPHER BS-16 TO THE POST OF SUPERINTENDENT BS-17 IN OFWM, WING OF AGRICULTURE DEPARTMENT

I am directed to refer to your letter No.2031 dated 05/03/2015 and to state that the subject case has already deferred by the DPC in its meeting held on 19.01.2015, therefore, the competent authority is pleased to file the case.

(Signature)
(DILAWAR KHAN)
SECTION OFFICER ESTT

End of message

ASSISTANT
(Signature)
11-4-2015

26-4-16-15

DIK

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 731/2015

Umar khitab

VS

Agri: Deptt:

REJOINDER ON BEHALF OF APPELLANT

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct by the respondents as the service record of the appellant is in the custody of the concerned department.
- 2 Admitted correct by the respondents as the service record of the appellant is in the custody of the concerned department.
- 3 Incorrect. While para 3 of the appeal is correct.
- 4 Incorrect. The appellant was the senior most eligible person and posts were also available therefore there remain no ground to defer the promotion of the appellant by DPC. Therefore he filed departmental appeal for his claim which was not responded by department within the statutory period of time.

APPELLANT
Umar Khitab

Through:

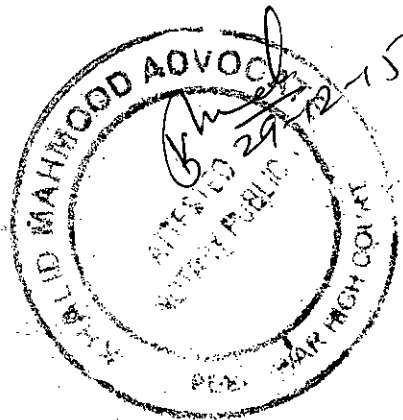


(M. ASIF YOUSAFZAI)
&

(TAIMUR ALI KHAN)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.




DEPONENT

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2446 /ST

Dated 14/11/2017


To

The Director General On Farm Water Management,
Government of Khyber Pakhtunkhwa,
Peshawar .

Subject: **JUDGEMENT IN APPEAL NO. 731/15, MR.UMAR KHETAB.**

I am directed to forward herewith a certified copy of Judgment dated 25/10/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

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

Appeal No. 731/2015

Service Tribunal
Entry No. 148
Dated 30-12-15

Umar Khitab

V/S

Agriculture Deptt:

**APPLICATION FOR TRANSFERRING THE INSTANT APPEAL FROM
D.I KHAN CAMP COURT TO PRINCIPAL SEAT PESHAWAR OF THE
HONOURABLE TRIBUNAL.**

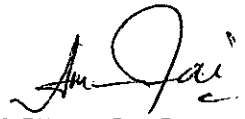
RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal for notional promotion to the post of Superintendent from his due date.
2. That the appeal is in arguments stage and is fixed for 26.01.2016 at D.I Khan Camp Court of this Honourable KPK Service Tribunal.
3. That the offices of main respondents are located at Peshawar. Therefore it will be convenient for Tribunal to call up any record about the appellant from the respondents.
4. That the appellant also engaged the counsel which is practicing at Peshawar.
5. That due to the shortage of members in the Tribunal, it will be difficult to hear arguments in D.I Khan Camp Court. Due to which the case will be linger on.
6. That it will be in the interest of justice to transfer the instant appeal from D.I Khan Camp Court of this Honourable Tribunal to principal seat Peshawar.

It is, therefore, most humbly prayed that on acceptance of this application, the instant appeal may be transfer from D.I Khan Camp Court to principal seat Peshawar of this Honourable Tribunal. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.

Appellant
Umar Khitab

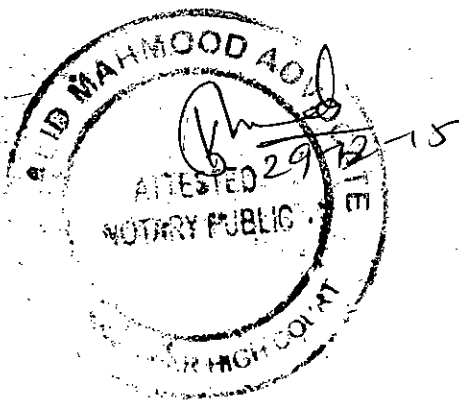
THROUGH:


(M. ASIF YOUSAFZAI)
&

(TAIMUR ALI KHAN)
ADVOCATES, PESHAWAR.

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.




Deponent