

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

2323
SERVICE APPEAL NO. 2322/2023

Mr. Said Rahman S/O Said Nawab/Assistant (BPS-16), O/o District Public Prosecutor Office,
Swat, at Gulkada, Saidu Sharif

Petitioners.....

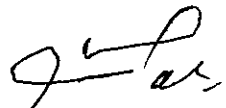
VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary & Others.

Respondents.....

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(Muhammad Gulzar Ali)
Superintendent Legal
Directorate of Prosecution
Khyber Pakhtunkhwa

6-05-24
Swat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 2323/2023

Mr. Said Rahman S/o Said Nawab/Assistant (BPS-16) O/o District Public Prosecution Office, Swat at Gulkada, Saidu Sharif.

.....**APPELLANT**
Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 12527

Dated 3/5/24

Government of Khyber Pakhtunkhwa, thorough Chief Secretary & others.

..... **RESPONDENTS**

Comments On Behalf Of Respondents No.1 to 4.

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:

1. That the instant Service Appeal is not maintainable in the eyes of law.
2. That the Appellant has got no Cause of Action.
3. That the appellant has concealed the material facts from this Honourable Tribunal.
4. The Appellant has challenged the Promotion Order dated 08.08.2023, with unrealistic grounds.
5. That the Appellant is estopped by his own conduct to bring the present appeal before this honourable Tribunal.

REPLY ON FACTS:

1. Pertains to record.
2. Incorrect. It is clarified that vide order dated 30.05.2018 (**Annex-I**), 15 numbers of Assistants (BS-16) were promoted to the post of Superintendent (BS-17) on Acting Charge Basis (**A.C.B**) for which Senior Clerks (BS-14) were to be promoted on **A.C.B** to the post of Assistants (BS-16). The promotion Notification dated 11.02.2019 (on regular basis) was issued in line with decision of Departmental Promotion Committee (DPC) taken in its meeting dated 28.12.2018 (**Annex-II**). In the said meeting, the DPC was to consider promotion of seventeen (17) Senior Clerks (BS-14) to the post of Office Assistant (BS-16) on Acting Charge Basis. The DPC determined that Sub-Rule-2 of Rule-9 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 (herein after referred as "APT rules") had been deleted hence instead of promotion on Acting Charge Basis; the Senior Clerks were promoted on Regular Basis.

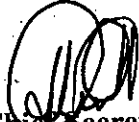
3. Incorrect. It is clarified that one, Mr. Ismail Khan, was directly recruited, on the recommendation of Khyber Pakhtunkhwa Public Service Commission, in the Directorate of Prosecution, vide order dated 15.03.2019 (**Annex-III**) as Assistant on 15.03.2019 i.e. after the above mentioned promotion. He filed a Departmental Representation and objected over the above mentioned Promotion of Senior Clerks on Regular basis having adversely affected his Seniority. Home & Tribal Affairs Department vide letter dated 13.12.2022 (**Annex-IV**) sought opinion of Establishment Department upon the decision of DPC meeting dated 28.12.2018 regarding deletion of Rule 9(2) of APT Rules. The Establishment Department vide its letter dated 13.03.2023 (**Annex-V**) conveyed that DPC had mis-interpreted Rule 9(2) of APT Rules and advised that the promotion case may be re-submitted to DPC for resolving the issue. The matter was again placed before DPC, which, in its meeting dated 25.09.2023 (**Annex-VI**) reconsidered the matter and in light of the opinion of Establishment Department, recommended that 14 senior clerks, including the Appellant, be promoted on Acting Charge Basis, with effect from 11.02.2019 and thereby the impugned order dated 08.08.2023 was issued. It is pertinent to mention here that vide a recent Promotion order dated 18.10.2023 (**Annex-VII**), the Appellant alongwith some other Senior Clerks, have been promoted on Regular Basis, due to availability of vacant posts of Office Assistant BS-16.
4. The Departmental Appeals of the Appellant could not be concluded as the matter was under consideration before the DPC. In this regard a letter of Home & Tribal Affairs Department dated 19.09.2023 is (**Annex- VIII**).
5. Incorrect, hence denied. Reply of each ground given below.

GROUNDS

- i. Incorrect. Hence denied. Detailed reply already provided vide Para-02 and 03 of the para-wise reply.
- ii. As replied above.
- iii. Incorrect, the eligibility of the Appellant for Regular Promotion was not a valid ground for promotion at that time because of want of vacant posts of Assistants (BS-16) in the Directorate of Prosecution. Detailed reply already provided vide Para-02 and 03 of the Para-wise reply.
- iv. Incorrect hence denied. No right of Appellant is made out because the previous promotion, notified vide Order dated 11.02.2019, was overturned by DPC in its subsequent meeting.
- v. As replied above.
- vi. As already stated, the matter was under consideration before DPC.
- vii. The seniority lists were prepared in light of previous Order dated 11.02.2019. Fresh seniority lists were prepared in light of Order dated 08.08.2023 and DPC meeting dated 25.07.2023.
- viii. Incorrect, hence denied. Detailed reply already provided vide Para-02 and 03 of the Para-wise reply.
- ix. As replied above.
- x. As replied above.
- xi. Incorrect hence denied.
- xii. The replying Respondents also seek permission to raise other grounds at time of arguments.

PRAYER:

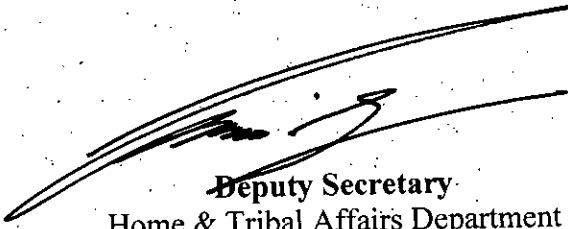
In light of the above facts and circumstances of the case, the Service Appeal is devoid of any merit and legal substance; therefore, the same may kindly be dismissed, please.



Chief Secretary
Government of Khyber Pakhtunkhwa.
/ Respondent No. 1.
(Abid Majeed)



Additional Chief Secretary
Home & Tribal Affairs Department
Government Khyber Pakhtunkhwa.
Respondent No. 2
(Abid Majeed)



Deputy Secretary
Home & Tribal Affairs Department
Government of Khyber Pakhtunkhwa.
Respondent No. 3.
(Abdul Qayum Khattak)



Director General Prosecution
Directorate of Prosecution
Government of Khyber Pakhtunkhwa.
Respondent No. 4
(Mian Muhammad)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT
Peshawar dated the 30/05/2018.

NOTIFICATION

NO.SO (Prosecution) HD/1-2/2017/Vol-I: On the recommendations of the Departmental Promotion Committee meeting held on 25-04-2018, the Government of Khyber Pakhtunkhwa is pleased to promote the following Assistant (BS-16) to the post of Superintendent (BS-17), on acting charge basis with immediate effect: -

S.#.	Name of the officers
1.	Muhammad Ghaffar Khan
2.	Muhammad Ali
3.	Maqsood Ali
4.	Sher Ali
5.	Muhammad Ibrahim
6.	Muhammad Iqbal
7.	Habibullah Jan
8.	Tariq Hussain
9.	Adnan Liaqat Ali
10.	Ibrar Bashir
11.	Ashraf Ud Din
12.	Khan Azad Khan
13.	Abdul Sattar
14.	Arshad Ali
15.	Shah Faisal

Attested
J. A.

2. The officers on promotion shall remain on probation for a period of one year (extendable for another year, in terms of Section 6(2) of Khyber Pakhtunkhwa, Civil Servants Act, 1973, read with Rule 15(1) of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

3. Consequent upon their promotion the Competent Authority is further pleased to order the posting/transfer of the following Prosecution officers in the public interest:

S.#	Name of the officers	From	To	Remarks
1	Muhammad Ghaffar Khan Superintendent (BS-17)	Bannu	Directorate of Prosecution	Against the vacant post
2	Mr. Syed Muhammad Ali Superintendent (BS-17)	Swabi	Chitral	Against the vacant post
3	Mr. Maqsood Ali Superintendent (BS-17)	Mardan	Swat	Against the vacant post
4	Mr. Sher Ali Superintendent (BS-17)	Charsadda	Mardan	Against the vacant post
5	Mr. Muhammad Ibrahim Superintendent (BS-17)	DI Khan	Bannu	Against the vacant post
6	Mr. Muhammad Iqbal Superintendent (BS-17)	Peshawar	Directorate of Prosecution	Against the vacant post
7	Mr. Habib Ullah Jan Superintendent (BS-17)	Swat	Dir Upper	Against the vacant post

5

129

8.	Mr. Tariq Hussain Superintendent (BS-17)	Battagram	Abbottabad	Against the vacant post
9.	Mr. Adnan Liaqat Ali Superintendent (BS-17)	Directorate	D.I. Khan	Against the vacant post
10.	Mr. Ibrar Bashir Superintendent (BS-17)	Mansehra	Mansehra	Against the vacant post
11.	Mr. Ashraf Ud Din Superintendent (BS-17)	D.I. Khan	Kohat	Against the vacant post
12.	Mr. Khan Azad Superintendent (BS-17)	Lakki Marwat	Charsadda	Against the vacant post
13.	Mr. Abdul Sattar Superintendent (BS-17)	Malakand	Dir Lower	Against the vacant post
14.	Mr. Arshad Ali Superintendent (BS-17)	Mardan	Buner	Against the vacant post
15.	Mr. Shah Faisal Superintendent (BS-17)	Directorate of Prosecution	Directorate of Prosecution	Against the vacant post
16.	Mr. Munir Alam Superintendent (BS-17)	Directorate of Prosecution	Peshawar	Against Vice No.6

SECRETARY
HOME DEPARTMENT

Endst: No. & date even

Copy forwarded to: -

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Director General Prosecution, Khyber Pakhtunkhwa, Peshawar.
3. All District Public Prosecutors, Khyber Pakhtunkhwa.
4. All District Accounts Officers, Khyber Pakhtunkhwa.
5. P.S to Secretary Home & Tribal Affairs Department, Peshawar.
6. PS to Special Secretary, Home & Tribal Affairs Department. Peshawar.

2
RSP
30/5/18
Section Officer (Prosecution)

Attestal
[Signature]

[Signature] - 1.2

MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE

A meeting on the subject was held on 28th December, 2018 at 11:00 hours under the chairmanship of Special Secretary, Home & Tribal Affairs Department in his office. The meeting commenced with the recitation from the Holy Quran, after which, the Chairman welcomed the participants and invited DG Prosecution to present the case. The Director General Prosecution apprised the Departmental Promotion Committee that Seventeen (17) posts of Office Assistants (BS-16) fall under the promotion quota of the Directorate of Prosecution as well as District Public Prosecutors offices in the Khyber Pakhtunkhwa. According to Serial No.8 (b) of Khyber Pakhtunkhwa, Prosecution Service Rules 2005, amended in 2010 and 2013, the method of promotion of Senior Clerks to the next higher rank of Office Assistant is 75% by promotion on the basis of Seniority-cum-fitness from amongst the Senior Clerks (BPS-14), with at least five (05) years service as Junior Clerk and Senior Clerk. He further elaborated that 15 Assistants have recently been appointed as Superintendent (BS-17) on acting charge basis.

Keeping in view the above, 17 Senior Clerks are required to be appointed as Office Assistant on Acting Charge Basis, including those three senior clerks who were not promoted in previous DPC due to inquiry pending against them. It was pointed out that Sub rule (2) of Rule-9 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 had been amended vide Notification No. SOR-VI(E&AD)-3/2009/Vol-VIII, dated 22-10-2011. Hence, the Department recommended the following 17 Senior Clerks (BS-14) for promotion as Assistant (BS-16) on regular basis.

S/1	Name of Senior clerks	Recommendation Of the Departmental Promotion Committee
1.	Shakeel Akhter	Recommended for promotion
2.	Syed Inam Shah	Recommended for promotion
3.	Sakhat Shah	Recommended for promotion
4.	Muhammad Ashraf	Recommended for promotion
5.	Malik Rishmat Ali	Recommended for promotion
6.	Yaqoob Kilan	Recommended for promotion
7.	Khairullah Jan	Recommended for promotion
8.	Fida Muhammad	Recommended for promotion
9.	Muhammad Yousof	Recommended for promotion
10.	Aurangzeb	Recommended for promotion
11.	Ajmal Khan	Recommended for promotion
12.	Sahbazada	Recommended for promotion
13.	Said Rehman	Recommended for promotion
14.	Tariq Ahmad	Recommended for promotion
15.	Syed Alam Strah	Recommended for promotion
16.	Hazrat Muhammad	Recommended for promotion
17.	Jehan Alam	Recommended for promotion

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

ADN
Deputy Secretary (Admin)
Home & Tribal Affairs Department
Member/Secretary of DPC

F. J. Khan
Director General Prosecution
Khyber Pakhtunkhwa.
Member
Finance Department

Member
Establishment Department

Chairman
Secretary Home & Tribal Affairs Department
Khyber Pakhtunkhwa

Attested
[Signature]

MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE

A meeting on the subject was held on 28th December, 2018 at 1100 hours under the Chairmanship of Special Secretary, Home & Tribal Affairs Department in his office.

02. The meeting commenced with the recitation from the Holy Quran, after which the chair welcomed the participants and invited DG Prosecution to present the case.

03. The Director General Prosecution apprised the Departmental Promotion Committee that Seventeen (17) posts of Office Assistants (BS-16) fall under the promotion quota at the Directorate of Prosecution as well as District public Prosecutor officers in the Khyber Pakhtunkhwa. According to Serial No. 8(b) of Khyber Pakhtunkhwa, Prosecution Service Rules 2005, amended in 2010 and 2013, the method of promotion of Senior Clerk to the next higher rank of office Assistant is 75% by promotion on the basis of Seniority Cum Fitness from amongst was further elaborated that 15 Assistants have recently been appointed as Superintendent (BS-17) on acting charge basis.

04. Keeping in view the above 17 Senior Clerks are required to be appointed as Office Assistants on Acting Charge Basis, including those three senior clerks who were not promoted in previous DPC due to inquiry pending against them. It was pointed out that Sub Rule(2) of Rule 9 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 had deleted vide Notification No. SOR-VI(E&AD)1-3/2009/Vol-VIII, dated 22-10-2011 Hence, the committee recommended the following 17 Senior Clerks (BS-14) for promotion as Assistant (BS-16) on regular basis.

S.No	Name of Senior Clerk	Recommendation of the Departmental Promotion Committee
1.	Shakeel Akhtar	Recommended for Promotion
2.	Syed Ibrar Shah	Recommended for Promotion
3.	Sakhawat Shah	Recommended for Promotion
4.	Muhammad Arshad	Recommended for Promotion
5.	Maalik Rehmat Ali	Recommended for Promotion
6.	Yaqoob Khan	Recommended for Promotion
7.	Khairullah Jan	Recommended for Promotion
8.	Fida Muhammad	Recommended for Promotion
9.	Muhammad Yousaf	Recommended for Promotion
10.	Aurangzeb	Recommended for Promotion
11.	Ajmal Khan	Recommended for Promotion
12.	Sahibzada	Recommended for Promotion
13.	Said Rehman	Recommended for Promotion
14.	Tariq Ahmad	Recommended for Promotion
15.	Syed Alam Shah	Recommended for Promotion
16.	Hazrat Muhammad	Recommended for Promotion
17.	Jehan Alam	Recommended for Promotion

The meeting ended with vote of thanks from to the chair.

Deputy Secretary(Admin)
Home & Tribal Affairs Department
Member/Secretary of DPC

Director General Prosecution
Khyber Pakhtunkhwa

Member
Finance Department

Member
Establishment Department

Chairman
Secretary Home & Tribal Affairs Department
Khyber Pakhtunkhwa



**DIRECTORATE OF PROSECUTION
KHYBER PAKHTUNKHWA**

No. _____
Dated Peshawar 15/3/2019
Office Phone # 091-9212559
Fax # 091-9212559
E-mail kpprosecution@yahoo.com

NOTIFICATION:

No. DPI/E&A/1(9)2.12.4-32/ On the recommendation of Public Service Commission, Khyber Pakhtunkhwa, the competent authority is pleased to appoint the following candidates as Office Assistant (BS-16) in the Directorate of Prosecution, Khyber Pakhtunkhwa against the vacant post with immediate effect subject to the given terms and conditions: -

S#	Name	Father Name	Domicile
1.	Kamran Khan	Farman Ullah	Malakand/3
2. ✓	Amir Nizam Durrani	Nizam Ullah	Nowshera/2
3. ✓	Ismail Khan	Muhammad Yousaf	Bajour Agy/1
4. ✓	Sohaib Durrani	Atta Ullah Durrani	Peshawar/2
5. ✓	Muhammad Amaad Khan	Aurang Zeb Khan	Kohat/4
6. ✓	Raisul Ahrar Bacha	Sar Biland Khan	Swat/3

1. He will be entitled to draw pay in BS-16 alongwith usual allowances as admissible to corresponding category of Government Services from time to time.
2. He shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the Rules made there-under.
3. He shall, initially, be on probation for a period of one year which is extendable as given in Rule 15 of the APT Rules, 1989. If his work during the period of probation is not found satisfactory, his services shall be dispensed with on one month's notice.
4. In case he wishes to resign at any time, one month notice shall be necessary or in lieu thereof one month pay will be forfeited.
5. He has to join duty at his own expense.
6. If he accepts the said post on these conditions, he should report for duty in the Directorate of Prosecution, Khyber Pakhtunkhwa within 30 days of the receipt of this appointment and produce original certificates in connection with his qualifications, domicile and age etc.
7. He shall produce a medical certificate of fitness from Medical Superintendent, Police & Services Hospital Peshawar before reporting for duty in the Directorate of Prosecution, Peshawar as required under the Rules.
8. His retention in service will be subject to verification of his domicile and testimonials from the concerned authorities/offices.
9. His appointment shall be subject to Police clearance certificate.

-Sd-
Director General Prosecution
Khyber Pakhtunkhwa.

Attended
[Signature]

Endst : of even No. dated

Copy forwarded for information to the:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
3. PA to Director General Prosecution, Khyber Pakhtunkhwa, Peshawar.
4. Officials Concerned.
5. Personal file.

[Signature]
15/03/2019
(Shafi Ullah)
Deputy Director Administration

DIRECTORATE OF PROSECUTION
KHYBER PAKHTUNKHWA

No. _____
Dated Peshawar 11/02/2019
Office Phone # 091-9212559
Fax # 091-9212559
E-mail kp prosecution@yahoo.com

ORDER:

No. DP E&A/1(100)/952-75. On the recommendation of the Departmental Promotion Committee (D.P.C), the following Senior Clerks (BPS-14) of this Directorate are hereby promoted to the post of Assistant (BS-16), on regular basis with immediate effect:-

S.No	Name	Present Posting
1	Shakeel Akhtar	Office of the District Public Prosecutor, Abbottabad.
2	Syed Ibrar Shah	Office of the District Public Prosecutor, Torghar.
3	Sakhawat Shah	Office of the District Public Prosecutor, Buner.
4	Muhammad Arshad	Office of the District Public Prosecutor, Abbottabad.
5	Malik Rehmat Ali	Office of the District Public Prosecutor, Peshawar.
6	Yaqoob Khan	Office of the District Public Prosecutor, Karak.
7	Khairullah Jan	Directorate of Prosecution
8	Fida Muhammad	Directorate of Prosecution
9	Muhammad Yousaf	Office of the District Public Prosecutor, Bannu.
10	Aurangzeb	Office of the District Public Prosecutor, Dir Lower.
11	Ajmal Khan	Office of the District Public Prosecutor, Swabi.
12	Sahibzada	Office of the District Public Prosecutor, Swabi.
13	Said Rehman	Office of the District Public Prosecutor, Malakand.
14	Tariq Ahmad	Office of the District Public Prosecutor, Swat.
15	Syed Alam Shah	Office of the District Public Prosecutor, Mansehra.
16	Muhammad Mahmood	Office of the District Public Prosecutor, Malakand.
17	Muhammad Shah	Office of the District Public Prosecutor, Shangla.

The above officials will be on probation for a period of one year in terms of section-6(2) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rules-15(1) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

--sd/--

(Director General Prosecution)
Directorate of Prosecution,
Khyber Pakhtunkhwa

Forwarded for Information to the: -

- Accountant General Office, Khyber Pakhtunkhwa, Peshawar
- Concerned District Public Prosecutor Offices. *Buner*
- Concerned District Accounts Offices.
- Officials concerned.
- P.S to Secretary to Govt. of Khyber Pakhtunkhwa, Home & Tribal Affairs Department, Peshawar.
- PA to Director General Prosecution, Khyber Pakhtunkhwa.
- Establishment Section of this Directorate.

Attested
[Signature]

[Signature]
Director Administration

Better Copy

**DIRECTORATE OF PROSECUTION
KHEYBER PAKHTUNKHWA**

No.-----

Dated Peshawar 11/02/2019

Office Phone # 091-2912559

Fax # 091-2912559

E-mail kpprosecution@yahoo.com

ORDER:

NO. DP/E&A/1(100)/952-75:- On the recommendation of the Departmental promotion Committee (D.P.C), the following Senior Clerks (BPS-14) of this Directorate are hereby promoted to the post of Assistant (BPS-16), on regular basis with immediate effect:-

S.No	Name of Senior Clerk	Present Posting
1.	Shakeel Akhtar	Office of the Public Prosecutor, Abbottabad.
2.	Syed Ibrar Shah	Office of the Public Prosecutor, Torghar.
3.	Sakhawat Shah	Office of the Public Prosecutor, Buner.
4.	Muhammad Arshad	Office of the Public Prosecutor, Abbottabad
5.	Maalik Rehmat Ali	Office of the Public Prosecutor, Peshawar
6.	Yaqoob Khan	Office of the Public Prosecutor, Karak
7.	Khairullah Jan	Directorate of Prosecution
8.	Fida Muhammad	Directorate of Prosecution
9.	Muhammad Yousaf	Office of the Public Prosecutor, Bannu
10.	Aurangzeb	Office of the Public Prosecutor, Dir Lower
11.	Ajmal Khan	Office of the Public Prosecutor, Swabi
12.	Sahibzada	Office of the Public Prosecutor, Swabi
13.	Said Rehman	Office of the Public Prosecutor, Malakand
14.	Tariq Ahmad	Office of the Public Prosecutor, Swat
15.	Syed Alam Shah	Office of the Public Prosecutor, Mansehra
16.	Hazrat Muhammad	Office of the Public Prosecutor, Malakand
17.	Jehan Alam	Office of the Public Prosecutor, Shangla

The above officials will be on probation for a period of one year in terms of section-6(2), of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rules-15(1) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

-sd-

(Director General Prosecution)

Directorate of Prosecution

Khyber Pakhtunkhwa

Copy forwarded for information to the:

- Accountant General Office, Khyber Pakhtunkhwa.
- Concerned District Public Prosecutor Offices.
- Concerned District Account Offices.
- Official Concerned.
- P.S to Secretary to Govt. of Khyber Pakhtunkhwa, Home & Tribal Affairs Departments Department, Peshawar.
- PA to Director General Prosecution, Khyber Pakhtunkhwa for information.
- Establishment Section of this Directorate



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

NO. SO (Pros)/HD/3-1/2022/KC
Dated Peshawar the 13th December, 2022

To

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

Subject:

APPLICATION TO REVISIT / REVIEW OF DECISION REGARDING FINAL SENIORITY LIST OF ASSISTANTS (B-16) ISSUED BY THE DC(PROS) VIDE ORDER NO. DP/E7A/A/6675-6720 DATED 25.04.2022

Dear Sir,

I am directed to refer to your letter SOR-III(E&AD)1-2/2022 dated 23.11.2022 on the subject noted above and state that this Department vide letter of even number dated 05.09.2022 (copy enclosed for ready reference) has intimated that promotion case of (14) Senior Clerks (BPS-14) to the post of Assistant (BPS-16) in the Directorate General Prosecution was placed before the Departmental Promotion Committee to consider promotion against (01) post on regular basis and (13) posts on acting charge. It is pertinent to mention here that earlier (15) Assistants were appointed as Superintendents (BPS-17) on acting charge basis, resultantly the posts of Assistant were available for promotion on acting charge basis.

2. The Departmental Promotion Committee recommended all (14) Senior Clerks for promotion as Assistant on regular basis instead of acting charge on the grounds that sub-Rule-2 of Rule-9 of the Khyber Pakhtunkhwa Civil Servants (APT) Rules, 1989 has been deleted vide notification No.SOR-VI(E&AD)1-3/2009/Vol-VIII dated 22.10.2011.

3. This Department vide letter of even number dated 05.09.2022 has therefore, requested for your advice as to whether the Senior Clerks promoted on regular basis on the grounds of deletion of rule 9(2) of APT Rules, 1989 against the posts which were not actually available for regular promotion is correct or otherwise.

4. I am, therefore, directed to request you that the matter may be re-considered and guide this department to resolve the issue of seniority as intimated vide this Department letter of even number dated 05.09.2022, please.

Yours faithfully,

(Muhammad Israr)
SECTION OFFICER (PROSECUTION)

14-12
Endst. No. & Date even

Copy forwarded to:

1. P.S to Secretary Home Department, Khyber Pakhtunkhwa.
2. Master file.

SECTION OFFICER (PROSECUTION)

AH ested
Jua



GOVERNMENT OF KHYBER PAKHTUNKHWA 140
ESTABLISHMENT & ADMN. DEPARTMENT
(REGULATION WING)

No. SOR-III (E&AD)/4-2/2022
Peshawar the March 13th, 2023

To
The Secretary to Govt. of Khyber Pakhtunkhwa,
Home & T.As Department.

Subject: APPLICATION TO REVISIT/REVIEW OF DECISION REGARDING
FINAL SENIORITY LIST OF ASSISTANT (BS-16) ISSUED BY THE
DG(PROS) VIDE ORDER NO. DPE&A/A(66)8675-6720 DATED
25/04/2022

Dear Sir,

I am directed to refer to your letter No. SO(Pros)HD/3-1/2022/KC dated 13.12.2022 on the subject noted above to state that the earlier advice of this department dated 23.11.2022 (Copy enclosed) is correct as far as fixation of seniority is concerned.

I am further directed to convey that the Departmental Promotion Committee in its meeting held on 28.12.2018 has misinterpreted Rule-9(2) of APT Rules, 1989 and have recommended promotion on regular basis against a vacancy available on acting charge basis hence the case of promotion of Senior Clerks (BS-14) to the post of Assistant (BS-16) may be re-submitted to the DPC to resolve the issue once for all, please.

Yours faithfully,

[Signature]
SECTION OFFICER (R-III)
Phone No. 9211793

Issue Branch: Home Depty
Diary No. 7499 dated 15/3/23
Spt Secy.....
Addl Secy.....
Deputy Secy.....

[Signature]
13/3
S (Pros)

[Signature]
15/3/23

Attended
[Signature]



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Subject: MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE'S (DPC) MEETING HELD ON 25.09.2023 UNDER THE CHAIRMANSHIP OF SPECIAL SECRETARY-I, HOME & TA'S DEPARTMENT

A meeting of the Departmental Promotion Committee (DPC) was held on 25-09-2023 at 11:00 AM under the Chairmanship of Special Secretary-I, Home and Tribal Affairs Department in his office. The following attended the meeting:

1. Mr. Akbar Ali Khan, Special Secretary-I, Home & Tribal Affairs Department Chairman
2. Mr. Sadaqat Ullah Deputy Secretary (R-II), Establishment Department
3. Mr. Fazal Qayyum Khattak, Deputy Secretary (Judicial), Home & Tribal Affairs Department
4. Mr. Sikandar Khan, Dy. Director (Admn) Directorate of Prosecution, Khyber Pakhtunkhwa
5. Mr. Yar Muhammad, Section Officer (SR-IV), Finance Department

2. The meeting started with the recitation from the Holy Quran. The Chair welcomed the participants and asked the Deputy Secretary Judicial, Home & Tribal Affairs Department to brief the forum in the instant case. The Deputy Secretary (Judicial) briefed the forum on the following two point's agenda:

- i) Promotion of (28) Acting charge Assistants (BPS-16) on regular basis.
- ii) Promotion of (01) acting charge Senior Scale Stenographer-BPS-16) on regular basis

AGENDA ITEM NO.1: (Promotion of (28) Acting charge Assistants (BPS-16) on regular basis)

3. The Deputy Secretary (Judicial) apprised the forum that total sanctioned strength of Assistant (BPS-16) in the Directorate of Prosecution is (50) posts, out of which 25% quota has been reserved for initial recruitment i.e (12.5 posts). 37.5 posts @ 75% come to the share of promotion quota. Presently 10 posts of Assistant (BPS-16) have been filled on regular basis, while 28 Senior Clerks (BS-14) are working as Assistants on acting charge basis. As per Prosecution Service Rules, for promotion to the post of Assistant (BPS-16), five years' service is required as Senior Clerk and Junior Clerk.

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A. H. H. H. H.

4. The Deputy Secretary (Judicial) further informed that the required length of service of the (28) acting charge Assistants has already been completed. He requested the Departmental Promotion Committee to consider regular promotion of the following acting charge Assistants:

S.#	Name of officials (acting charge Assistant)	Eligibility for regular promotion
1	Mr. Sakawat Shah	Eligible
2	Mr. Muhammad Arshad	-do-
3	Mr. Malik Rehmat Ali	-do-
4	Muhammad Yousaf	-do-
5	Mr. Ajmal Khan	-do-
6	Mr. Sahibzada	-do-
7	Mr. Said Rehman	-do-
8	Mr. Tariq Ahmad	-do-
9	Mr. Syed Alam Shah	-do-
10	Mr. Hazrat Muhammad	-do-
11	Mr. Jehan Alam	-do-
12	Mr. Tariq Khan	-do-
13	Mr. Waseem Abbas	-do-
14	Mr. Shah Fahad	-do-
15	Mr. Shahzeb	-do-
16	Mr. Bakht Pervesh	-do-
17	Mr. Wali ur Rehman	-do-
18	Mr. Nasir Ali	-do-
19	Mr. Jamshed Ahmed	-do-
20	Muhammad Zarshad	-do-
21	Muhammad Tariq Khan	-do-
22	Mr. Taj Rehman	-do-
23	Mr. Tufail Khan	-do-
24	Muhammad Nasir	-do-
25	Mr. Noman	-do-
26	Mr. Sard Nawaz	-do-
27	Mr. Roman Mehmood Khan	-do-
28	Mr. Osama Ali Khan	-do-

RECOMMENDATIONS

5. The Departmental Promotion Committee recommended the above mentioned (28) acting charge Assistant (BPS-16) for promotion as Assistants on regular basis with immediate effect i.e. date of notification.

AGENDA ITEM NO.2: (Promotion of (01) acting charge Senior Scale Stenographer-BPS-16) on regular basis)

6. The forum was informed that there are two sanctioned posts of Senior Scale Stenographer (BPS-16) in the Directorate of Prosecution. However, only one post has been filled through appointment of Mr. Muhammad Zahid, Junior Scale Stenographer (BPS-14) on acting charge basis due to less length of service. As per Service Rule, the post of Senior Scale Stenographer (BPS-16) is required to be filled by promotion from amongst the holder of the post of Junior Scale Stenographer (BPS-14) with at-least five years' service as such.

Attestation
[Signature]

[Handwritten mark]

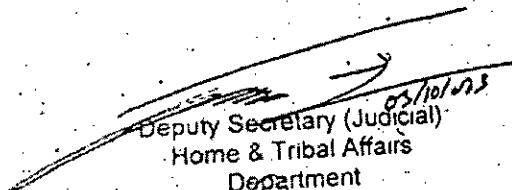
7. Mr. Muhammad Zahid, Junior Scale Stenographer (BPS-14) was initially appointed on 07.08.2018 in the Public Safety Commission of Home and Tribal Affairs Department. He was appointed as Junior Scale Stenographer (BPS-14) in the Directorate of Prosecution on 17.12.2018 through proper channel. The required length of service for regular promotion to the post of Senior Scale Stenographer is five years as Junior Scale Stenographer.

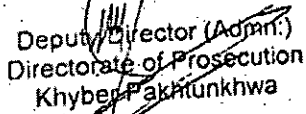
8. The representative of Establishment Department was of the view that the incumbent has not completed the required length of service as he has joined the present post on 18.12.2018. His previous service rendered in Public Safety Commission could not be counted for the purpose of seniority. Therefore, his case for regular promotion to the post of Senior Scale Stenographer is required to be dropped due to less length of service.

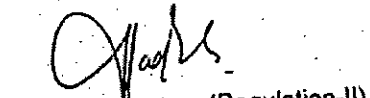
RECOMMENDATIONS

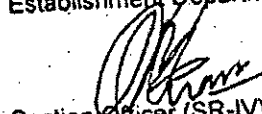
9. After threadbare discussion, the Departmental Promotion Committee decided to defer the case.

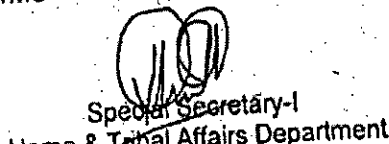
Meeting ended with a vote of thanks to and from the chair.


 Deputy Secretary (Judicial)
 Home & Tribal Affairs
 Department

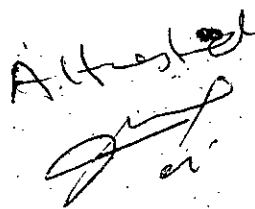

 Deputy Director (Admin.)
 Directorate of Prosecution
 Khyber Pakhtunkhwa


 Deputy Secretary (Regulation-II)
 Establishment Department


 Section Officer (SR-IV)
 Finance Department


 Special Secretary-I
 Home & Tribal Affairs Department

04/10/23

Attested




GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

No DP/

Dated Peshawar the 12/10/2023

Office Landline=091-9212559

ORDER:

No. DP/E&A/1(100)12932-59 On the recommendations of the Departmental Promotion Committee (DPC) meeting held on 25-09-2023, the Competent Authority has been pleased to promote the following acting charge Assistant (BPS-16) on regular basis with immediate effect:

S#	Name of Official
1	Mr. Sakhawat Shah
2	Muhammad Arshad
3	Malik Rehmat Ali
4	Muhammad Yousaf
5	Mr. Ajmal Khan
6	Mr. Sahibzada
7	Mr. Said Rehman
8	Mr. Tariq Ahmad
9	Syed Alam Shah
10	Hazrat Muhammad
11	Mr. Jehan Alam
12	Mr. Tariq Khan
13	Mr. Waseem Abbas
14	Mr. Shah Fahad
15	Mr. Shah Zeb
16	Mr. Bakht Pervesh
17	Mr. Wali Ur Rehman
18	Mr. Nasir Ali
19	Mr. Jamshed Ahmed
20	Muhammad Zarshad
21	Muhammad Tariq Khan
22	Mr. Taj Rehman
23	Mr. Tufail Khan
24	Muhammad Nasir
25	Mr. Noman
26	Mr. Said Nawaz
27	Mr. Roman Mehmood Khan
28	Mr. Osama Ali Khan

-Sd-
Director General Prosecution
Khyber Pakhtunkhwa.

Encl: even No & dated:

Copy forwarded for information to the:

Accountant General, Khyber Pakhtunkhwa, Peshawar.

District Public Prosecutor offices concerned.

District Account Offices concerned.

PS to Special Secretary-I, Home & TAs Department, Khyber Pakhtunkhwa, Peshawar.

Assistant Director (I.T), Directorate of Prosecution.

PS to Director General Prosecution, Khyber Pakhtunkhwa.

Establishment Section of this Directorate.

[Signature]
Assistant Director Administration

AHestad
[Signature]

117



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

No.SO(Pros)/HD/2-6/DPC-DSC/2023
Dated Peshawar the 19th September, 2023

To ✓
The Director General Prosecution,
Khyber Pakhtunkhwa, Peshawar

Subject: APPLICATION/REQUEST FOR REVISION OF ORDER
NO.DP/E&A/1(08)10063-70 DATED 08.08.2023 OF WORTHY
DIRECTOR GENERAL PROSECUTION, PESHAWAR

Dear Sir,

Handwritten notes:
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30/09/23

pg # 116

I am directed to refer to your letter No.DP/E&A/PF/11538 dated 15.09.2023 on the subject noted above and to state that a meeting of the Departmental Promotion Committee (DPC) has been scheduled to be held on 25.09.2023 at 1100 hours to consider regular promotion of (28) acting charge Assistants (BPS-16) including Mr. Sakhawat Shah.

Yours faithfully,

(Signature)
(Muhammad Israr)
SECTION OFFICER (PROSECUTION)

Encl. of even no. and date.

Copy forwarded to P.S to Secretary Home & Tribal Affairs Department.

SECTION OFFICER (PROSECUTION)

Attested
(Signature)

9115
24/9/2023

Spdt.

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

SERVICE APPEAL NO. 2323/2023

Mr. Said Rehman S/O Said Nawab/Assistant (BPS-16), O/o District Public Prosecutor Office,
Swat at Gulkada, Saidu Sharif

Petitioners.....

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary & Others.

Respondents.....

AFFIDAVIT

I, Mian Muhammad, Director General, Directorate of Prosecution, Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on oath that the contents of Service Appeal No. 2323/2023, are true and correct to the extent of office record and nothing has been concealed from Service Tribunal Khyber Pakhtunkhwa. It is further stated on oath that the replying respondents have neither been placed ex-party nor their defense struck off/cost.



Deponent

[Handwritten signature]
06/03/24

1)

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL,
PESHAWAR AT CAMP COURT SWAT

SERVICE APPEAL NO. 2323/2023

Mr. Said Rehman S/O Said Nawab/Assistant (BPS-16), O/o District Public Prosecutor Office,
Swat at Gulkada, Saidu Sharif

Petitioners.....


VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary & Others.

Respondents.....

AUTHORITY LETTER

Muhammad Gulzar Ali, Superintendent Legal, Directorate of Prosecution, Khyber Pakhtunkhwa, is hereby authorized to submit Parawise Comments in Service Appeal No. 2323/2023, before the Khyber Pakhtunkhwa Service Tribunal, Peshawar on behalf of Director General Prosecution, Khyber Pakhtunkhwa.


Director General Prosecution
Directorate of Prosecution
Khyber Pakhtunkhwa
Peshawar