

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 607/2024

Engr: Nazir Ahmad Khan,
Retired Executive Engineer, C&W Division, Chitral

--- Appellant

VERSUS

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

--- Respondent

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Deponent



Zeeshan,

Section Officer (Litigation)
C&W Department, Peshawar.

①

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
SERVICE APPEAL NO. 607 of 2024**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 15400

Dated 04.09.2024

Engr. Nazir Ahmad Khan --- Appellant
Retired Executive Engineer (BS-18) C&WD
District Chitral

Versus

1. Chief Secretary Khyber Pakhtunkhwa --- Respondents
Peshawar
2. Secretary to Govt of Khyber Pakhtunkhwa
Establishment Department, Peshawar
3. Secretary to Govt of Khyber Pakhtunkhwa
C&W Department, Peshawar

Joint Para wise Comments on behalf of Respondents No. 1 to 3

Respectfully Sheweth

Preliminary Objections

1. That the appellant has no cause of action
2. That the appeal is incompetent and not maintainable in its present form
3. That the appellant is estopped by his own conduct to bring the present appeal
4. That the appellant has no locus standi to file instant appeal.
5. That the appeal is barred by law and limitation.

Facts

1. Correct to the extent, that appellant was appointed as Assistant Engineer/SDO (BS-17) on 12.09.1978 in C&W Department, selected through Public Service Commission. He stood retired from Govt service on attaining the age of superannuation i.e. 60 years w.e.f. 10.06.2010.
2. Incorrect, in fact the appellant during the time was under disciplinary proceedings and his case for promotion could not be cleared by the PSB as per promotion policy of the Government.
3. Incorrect, the appellant was under inquiry on account of his irregularities disciplinary therefore, he was superseded/deferred in the year of 2002 to June 2005. Minutes of the PSB at (Annex-I) for ready reference.
4. As explained in Para 3 above.
5. The appellant filed service appeal No 598/2003 before Khyber Pakhtunkhwa service tribunal Peshawar. In the instant service appeal, the court has passed orders with the verdict "*Grievances of the appellant has been redressed. The appeal has become infructuous application for withdrawal of the appeal has also been submitted to this effect. As such the instant appeal being infructuous is hereby dismissed as withdrawn*".

6. Incorrect, for the promotion of officers from BS-17 and above the Provincial Selection Board is the only forum which is empowered to decide the promotion cases of officers on their performance and merit.
7. As explained in Para 3 above.
8. Incorrect, there were reports from DCO Chitral dated 23.12.2000 and EDO W&S Chitral dated 28.12.2001 showing his poor performance at that time. The officer was issued "censure" on 04.09.2002 and 16.05.2003 (**Annex-II**) (where this time 03 increments were also withheld) and later on, both the orders dated 04.09.2002 and 16.05.2003 were set-aside vide order dated 09.06.2005 (**Annex-III**). The appellant was issued "censure" on 15.01.2007 (**Annex-IV**) and the respondent Department has accordingly withdrawn its order dated 15.01.2007 vide this Department order dated 16.03.2007 (**Annex-V**). The officer was served with charge sheet and statement of allegations, inquiry proceeding under RSO, 2000 was initiated for alleged irregularity in construction/repair of roads in District Chitral due to which the PSB retained its earlier recommendations of 12.11.2009 and accordingly deferred his promotion to the rank of XEN (BS-18).

It is further to mention that he was suspended from service w.e.f. 28.03.2006 to 17.01.2007 (order dated 28.03.2006) (**Annex-VI**). Thereafter he was dismissed from service w.e.f. 12.06.2007 to 08.08.2008 (order dated 12.06.2007) (**Annex-VII**). However on the decision of NWFP Services Tribunal in a service appeal No.971/2007, the penalty was withdrawn vide order dated 08.08.2008 (**Annex-VIII**).

9. Incorrect, the PSB in its meeting held on 12.07.2005 rejected his promotion due to the reasons mentioned in PSB minutes (**Annex-IX**).
10. Incorrect. Although the officers junior in rank to the appellant were considered/ recommended for promotion from BS-17 to BS-18 and subsequently on availability of posts BS-19 were cleared/considered for promotion by the Competent Forum (PSB) and with the approval of Competent Authority, their promotion notifications were issued. The appellant was not considered by PSB for promotion for the reasons as explained in the above paras.
11. In light of the Service Tribunal decision dated 19.01.2012, the case for proforma promotion was processed and referred to Establishment Department for consideration of the PSB. The PSB in its meeting held on 07.08.2013 considered the case in pursuance of Service Tribunal judgment dated 19.01.2012 and August Supreme Court of Pakistan judgment dated 17.01.2013 and did not find him suitable for promotion, minutes of the meeting annexed (**Annex-X**).
12. As explained in Para-11 above.

13. Incorrect. In compliance of the Service Tribunal judgment dated 19.10.2016, a working paper for proforma promotion of the appellant was again placed before Provincial Selection Board (PSB) for consideration. The PSB in its meeting held on 25.09.2017 declared the appellant in-eligible for proforma promotion with the reason that since overall record of the officer is not good and enquiry/proceeding against him was not finalized and decided on merit, but the inquiry was abated due to his retirement on attaining the age of superannuation (**Annex-XI**).

14. The appellant Engr. Nazir Ahmad Executive Engineer (Retired) C&W Department filed another service appeal before the Khyber Pakhtunkhwa Service Tribunal for proforma promotion to the next higher Grade of BS-18 and BS-19 with all back benefits. The Service Tribunal partially accepted the instant service appeal on 17.01.2020 and directed Respondent No.6 (Secretary C&WD) to take up the case with Respondent No. (Chief Secretary) for appointment of a Scrutiny Committee at the level of Respondent No. 2 (Additional Chief Secretary) comprising of Secretary law, Secretary Finance and Secretary Establishment Department as Respondent No.4 to consider the case of appellant for the purpose of proforma promotion in light of the judgment of various judicial directions and on humanitarian grounds for making the recommendation to the Provincial Selection Board (PSB) (**Annex-XII**). In compliance to the Khyber Pakhtunkhwa Service Tribunal judgment dated 17.01.2020, a Note was submitted to Chief Secretary Khyber Pakhtunkhwa with the view that a Scrutiny Committee may kindly be appointed at the level of Additional Chief Secretary, comprising of Secretary Law, Secretary Finance and Secretary Establishment Department(s) to consider the case of Engr. Nazir Ahmad Assistant Engineer (BS-17) C&W Department (now retired) for the purpose of proforma promotion and make recommendations to the Provincial Selection Board (PSB) on humanitarian basis. After approval of Chief Secretary Khyber Pakhtunkhwa, necessary notification was issued on 27.10.2020 (**Annex-XIII**). The scrutiny committee meeting was held on 09.12.2020 under the chairmanship of Additional Chief Secretary Khyber Pakhtunkhwa. After examining all relevant record of the officer and thread bare discussion, the Committee recommended the Proforma Promotion of Engr. Nazir Ahmad Assistant Engineer (BS-17) retired to the post of Executive Engineer (BS-18) w.e.f. 09.06.2010 (one day before his retirement) for further consideration of Provincial Selection Board (PSB). However, the scrutiny committee did not recommend the officer for proforma promotion to the post of Superintending Engineer (BS-19) observing that performance was required to be evaluated for promotion to next grade, while the officer has already retired from service in BS-17 (**Annex-XIV**). In order to implement the Khyber Pakhtunkhwa Service Tribunal dated 17.01.2020 as well as recommendation of Scrutiny Committee, a

(4)

working paper was placed before the Provincial Selection Board (PSB) to determine the suitability of proforma promotion in respect of Engr. Nazir Ahmad retired Assistant Engineer (BS-17) C&W Department, keeping in view the directions of Hon'able Supreme Court and Service Tribunal recommendations of the Scrutiny Committee and availability of vacancy at the time of retirement in respect of Engr. Nazir Ahmad, the Board decided to recommend the officer for granting proforma promotion w.e.f. 09.06.2010, one day before his retirement, to the post of Executive Engineer (BS-18). The Board, however, did not recommend the proforma promotion of the officer to the post of Superintending Engineer (BS-19) observing that performance was required to be evaluated for promotion to next grade while the officer had already retired from service in BS-17 on 10.06.2010 on attaining the age of superannuation (Annex-XV).

15. As explained in Para 14 above.
16. The appellant was not satisfied from the referred proforma promotion and filed execution petition before the Service Tribunal with the plea that the petitioner has been granted proforma promotion (BS-18) w.e.f 09.06.2010 issued on 08.02.2023 and further proforma promotion has been denied. The Service Tribunal has disposed the case on 01.11.2023, with the verdict **"that the proceedings conducted by the respondent are in line with the terms of the judgment of the tribunal. As a resultant consequence, this petition is filed. Consign"** (Annex-XVI)
17. As explained in Para 16 above.
18. The applicant filed W.P. No. 5332-P/2023 in Peshawar High Court Peshawar with the plea that the impugned Notification dated 05.08.2021 may be declared illegal, whereby he was granted proforma promotion to the post of Executive Engineer (BS-18) C&W Department w.e.f 09.06.2010 instead of 08.02.2003 and not granting sub sequent proforma promotion to the post of Superintending Engineer (BS-19) w.e.f 31.12.2008. The Court has disposed of the said petition on 16.01.2024 with the verdict to treat the instant writ petition as Departmental representation and office is directed to transmit the same before respondent No.1 who in turn place the same before the Competent Authority for its onward decision. If in case the petitioner could not receive a favorable decision then he is at liberty to agitate the matter before the competent forum. As per court directions, the case was placed before the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) who rejected the departmental representation and plea taken in the subject writ petition as the PSB in its meeting held on 13.07.2021 considered the proforma promotion case of the appellant and recommended for granting proforma

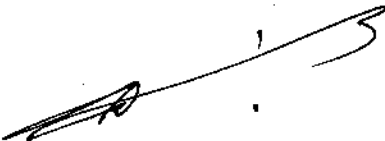
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promotion to the post of Executive Engineer (BS-18) w.e.f 09.06.2010 (one day before his retirement). The PSB, however, did not recommend proforma promotion to the post of Superintending Engineer (BS-19) observing that performance was required to be evaluated for promotion to next grade while the appellant already retired from service in BS-17 on 10.06.2010 on attaining the age of superannuation, meaning thereby he has already availed the facility of proforma promotion.

19. Incorrect, the appellant has been informed about the rejection of the department representation on the available home address on 30.05.2024 (**Annex-XVII**)

GROUND

- A. As explain in Para 14 of the facts
- B. Incorrect. No violation of constitution of Islamic Republic of Pakistan 1973 was made; hence, the claim of the appellant is not justified.
- C. Incorrect, neither discrimination to any individual, including the appellant was done nor any rule or principle of law infringed, the apprehensions of the appellant are misleading
- D. Incorrect, PSB is a high level forum of Provincial Government and is empowered to decide the promotion cases of officers on their performance and merit.
- E. Incorrect. No discrimination to any individual, including appellant, was done nor any Rule or Principle of law infringed. The apprehension of the appellant is misplaced. In fact, the Department followed rules/policy strictly in the cases of promotion of officers/officials of the department
- F. Incorrect as explained in para-14 of the facts, there has no mala-fide, discrimination or violation of rights of the appellant has ever been made. In fact, the Department has followed rules/policy strictly in cases of promotion of officers/officials of the Department; hence the stance taken in the service appeal is not justified.
- G. The Respondents would like to seek permission of this Hon'able Tribunal to advance more grounds during the time of arguments.


Secretary to
Govt of Khyber Pakhtunkhwa
C&W Department
(Respondents No. 1 & 3)
(Muhammad Israr)


Secretary to
Govt of Khyber Pakhtunkhwa
Establishment Department
(Respondents No. 2)
(Zulfikar Ali Shah)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 607/2024

Engr: Nazir Ahmad Khan,
Retired Executive Engineer, C&W Division, Chitral

--- Appellant

VERSUS

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

--- Respondent

AFFIDAVIT

I, Muhammad Israr, Secretary to Govt of Khyber Pakhtunkhwa, C&W Department, Peshawar hereby affirm and declare that all the contents of the Parawise Comments are correct to the best of my knowledge and belief and nothing has been concealed.

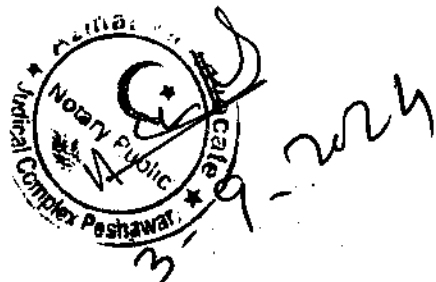
It is further stated on oath that in this appeal, the answering respondent neither has been placed ex-parte nor their defense has been struck off.

Deponent



MUHAMMAD ISRAR
SECRETARY
to Govt of Khyber Pakhtunkhwa
C&W Peshawar.
(Respondent No.1 & 3)

ATTESTED



Notary Public
Judicial Complex Peshawar
3-9-2024

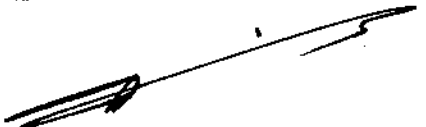


**GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT**

NO. SO (Lit.)C&W/3-507/2024
Dated Peshawar, the July 31, 2024

AUTHORITY LETTER

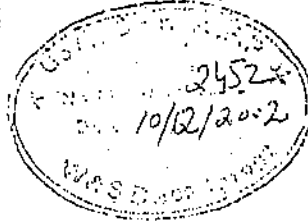
Mr. Zeeshan, Section Officer (Litigation), C&W Peshawar having CNIC 17301-2418439-1 is hereby authorized to file the Joint Parawise Comments in case titled "Service Appeal No. 607 of 2024 Nazir Ahmad Vs Govt Of Khyber Pakhtunkhwa & Others" on behalf of Secretary C&W Department.


MUHAMMAD ISRAR
SECRETARY
to Govt of Khyber Pakhtunkhwa
C&W Peshawar.
(Respondent No.1 & 3)

Annex-I

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CONFIDENTIAL
IMMEDIATE



GOVERNMENT OF NWFP
ESTABLISHMENT DEPARTMENT

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

To

The Secretary to Government of NWFP,
Works and Services Department

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

PROMOTION OF ENGINEERS FROM BPS-17 TO BPS-18

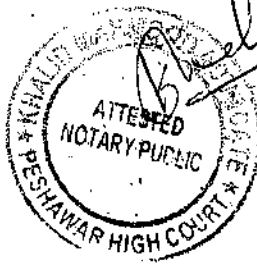
Dear Sir,

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

Yours faithfully

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

Encl: As Above



[Signature]

Attested
Section Officer (Litigation)
Khyber Pakhtunkhwa
C&W Department

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CONFIDENTIAL

ITEM NO.1

WORKS AND SERVICES DEPARTMENT

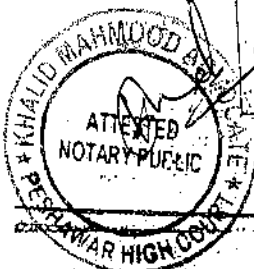
SUBJECT: - PROMOTION OF ENGINEERS FROM BPS-17 TO BPS-18

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

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

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

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



[Signature]
 Section Officer (Litigation)
 Khyber Paktunkhwa
 C&W Department

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ITEM NO.3

WORKS AND SERVICES DEPARTMENT
(Meeting held on 8.11.2004)

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

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

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

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

S.No.	Name of Officer	Recommendations of the board
1	Mr. Nazir Ahmad Khan B.E (Civil)	<p>His date of birth is 11.6.1950. He is B.E(Civil). He joined Government service on 31.10.1978.</p> <p>Previously he was superseded on 28.11.2002 for the reasons that his performance/general reputation were not upto the mark. His behaviour with senior was not desirable. He was also involved in an enquiry.</p> <p>The Board was informed that the enquiry has now been finalized and a minor penalty of withholding of three increments for three years and "Censure" has been imposed upon him on 16.5.2003. Another minor penalty of "Censure" has also been imposed upon him on 4.9.2002.</p> <p>The Board, therefore, recommended his supersession for promotion to the post of Executive Engineer (BPS-18).</p>
2	Mr. Muhammad Hamayun B.E (Civil)	<p>His date of birth is 14.11.1953. He is B.E(Civil). He joined Government service on 31.10.1978.</p> <p>Previously he was deferred by the Board on 18.11.2002 for the reason that he was under NAB custody He has now been released on bail and his case is pending under trial in the Accountability Court.</p> <p>The Board, therefore recommended to defer his promotion till the finalization of his case.</p>
3	Mr. Sher Shah B.E (Civil)	<p>His date of birth is 1.3.1950. He is B.E(Civil). He joined Government service on 22.5.1979.</p> <p>Previously he was deferred by the Board on 28.11.2002 for the reason that he was under NAB custody. He has now been released on bail and his case is pending/under trial in the Accountability Court.</p> <p>The Board, therefore, recommended to defer his promotion till the finalization of his case.</p>

[Signature]
Section Officer (Litigation)
Peshawar
Pakhtunkhwa
C&W Department

Amir G

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CONFIDENTIAL

ITEM NO. 3

WORKS AND SERVICES DEPARTMENT
(Meeting held on 8.11.2004)

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

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

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

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

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

Attested

ATTESTED
NOTARY PUBLIC
Khyber Pakhtunkhwa
Department

Section Officer (Admin)
Govt. of F.W.P.
Establishment Deptt.

ITEM NO.1

WORKS AND SERVICES DEPARTMENT
(Meeting held on 12.7.2005)

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

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

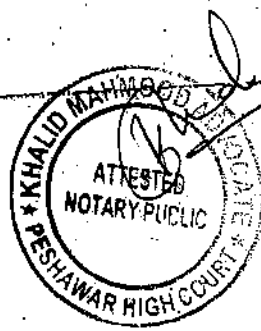
"By selection on merit with due regard to seniority, from amongst the Assistant Directors/Assistant District Officers/Assistant Design-Engineers/Assistant Engineers or holder of equivalent posts (BS-17), with at least 5 years of service as such.

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

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

Attested
Section Officer (Litigation)
Khayber Pakhtunkhwa
C&W Department

Attested
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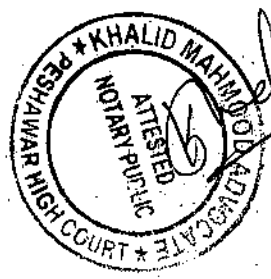
Section Officer (Litigation)
Khayber Pakhtunkhwa
C&W Department

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13

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

Muhammad

Muhammad
 Section Officer (PSB)
 Govt. of N.W.F.P.
 Establishment Deptt.



Muhammad
 Section Officer (Litigation)
 Khyber Pakhtunkhwa
 C&W Department

Annex-II

GOVERNMENT OF NWFP
WORKS & SERVICES DEPARTMENT

Dated Peshawar the 04 / 09 / 2002

ORDER

1. No. SOE/W&S/1-6/78 WHEREAS, Mr. Nazir Ahmad Khan, SDO now Design Engineer O/o Chief Engineer Works & Services Peshawar was proceeded against under the NWFP Removal From Service (Special Powers) Ordinance 2000 for the charges that he had not provided the relevant record to the Inquiry Officer in connection with "Feasibility study and construction of RGC Bridge over Yarkhoon River at Mastuj ADP No.296/04/1012" for conducting inquiry.

2. AND WHEREAS, Show Cause Notice for imposition of minor penalty of "Censure" was served upon the accused officer to which he submitted his explanation.

3. NOW, THEREFORE, the competent authority, after having considered the charges, the material on record, the explanation of the officer concerned and personal hearing, in exercise of powers conferred by section 3 of the NWFP Removal From Service (Special Powers) Ordinance 2000 has been pleased to impose the minor penalty of "Censure" on Mr. Nazir Ahmad Khan, SDO now Design Engineer O/o of the Chief Engineer Works & Services Peshawar.

SECRETARY

Ends: off even number & Date.

Copy to the

- 1. Chief Engineer, Works & Services Peshawar
- 2. Director/EDO Works & Services Central
- 3. Deputy Director Works & Services Central
- 4. PS to Chief Secretary NWFP
- 5. PS to Secretary Establishment Department
- 6. PA to Deputy Secretary (Admin) Works & Services Department
- 7. Officer concerned.
- 8. Office Order/Personal/ACRs file of the officer concerned.

(AZIZ KHAN KHATTAK)
SECTION OFFICER ESTS

06-09-02

J. Hussain *Amal*

15

Dated Peshawar, the May 16, 2003.

ORDER

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

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

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

(ARSHAD MIRZA)
SECRETARY


No. SO(E)W&S/26-12/2001/Vol-III

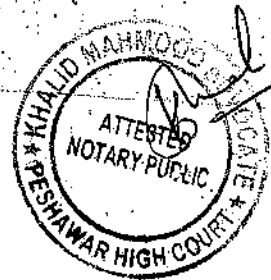
Dated Pesh, the May 12, 2003

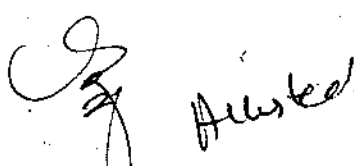
Copy to the:-

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

Received
on 19/5/2003


(IHSANULLAH) 16/5
SECTION OFFICER (ESTT-II)




Section Officer (Litigation)
Khyber Pakhtunkhwa
C&W Department

Dated Peshawar, the 09/06/2005

ORDER

No. SOE/W&S/1-6/78. WHEREAS Mr. Nazir Ahmad (BS-17) Deputy Director Works & Services Chitral (Own pay & scale) was proceeded against under the NWFP Removal From Service (Special Powers) Ordinance, 2000 for his alleged irregularities committed in the feasibility study and construction of RCC Bridge over Yarkhun River at Mastuj with realignment of Parwak Mastuj Road (1.2 Km) Chitral.

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

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

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

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

SECRETARY TO GOVERNMENT
WORKS & SERVICES DEPARTMENT

Ends: No. & Date as above

Copy forwarded to the

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



ARSHAD KHAID KHAN
SECTION OFFICER (ESTT-II)

Attested
(Liaison)

Annex - IV

(17)

(78)

GOVERNMENT OF NWFP
WORKS & SERVICES DEPARTMENT
Dated Peshawar, the January 15, 2007

ORDER

No. SOE-1/W&S/1-6/78 WHEREAS, Mr. Nazir Ahmed Deputy Director (Own pay & scale) Works & Services Chitral, was proceeded against under the Removal from service (Special Powers) Ordinance 2000, for the alleged "not attending meetings called by the DCO and District Nazim Chitral and also not preparing PC-Is of developmental schemes"

2. AND WHEREAS, for the said act of misconduct, he was served with charge sheet/statement of allegations to which he replied.

3. AND WHEREAS, Engr. Tariq Saeed Project Director FHA and Faqir Taj Executive District Officer Works & Services Swat were appointed Inquiry Committee in the matter who after conducting inquiry submitted their report.

4. AND WHEREAS, show cause notice for imposition of tentative major penalty of "Removal from Service" was served upon which he submitted his explanation.

5. NOW, THEREFORE, the competent authority, after having considered the charges, material on record, explanation of the officer and inquiry report of Inquiry Committee in exercise of powers conferred by Section-3 of NWFP Removal from Service (Special Powers) Ordinance 2000, has been pleased to impose the minor penalty of 'Censure' upon the officer.

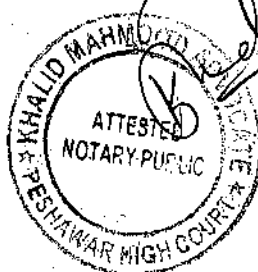
SECRETARY TO GOVT. OF NWFP
WORKS & SERVICES DEPARTMENT

Endst of even number & date

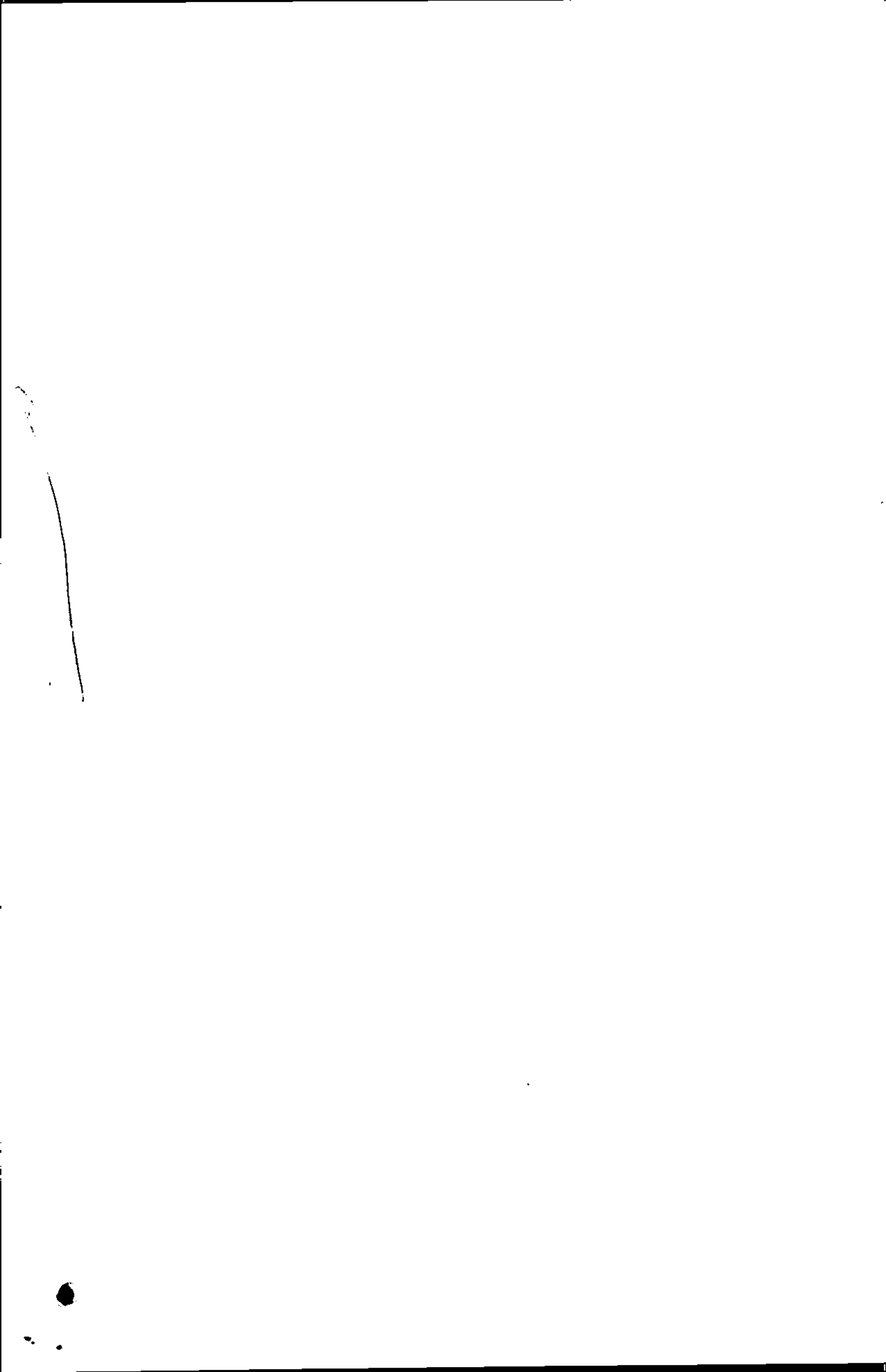
Copy is forwarded to:-

1. Accountant General NWFP, Peshawar.
2. Chief Engineer Works & Services Peshawar.
3. Chief Engineer PHE Works & Services Peshawar.
4. Executive District Officer W&S Chitral.
5. Deputy Director Works & Services Chitral.
6. District Accounts Officer Chitral.
7. PS to Secretary Works & Services Department, Peshawar.
8. PA to Addl: Secretary Works & Services Department, Peshawar.
9. Officer concerned.
10. Office file/Personal file.

16/1/07
(ARSHAD KHAN AFRIDI)
SECTION OFFICER (ESTT-I)



16/1/07
Attested
Khyber Pakhtunkhwa
C&W Department



LEGIBLE COPY 18(A)

GOVERNMENT OF NWFP
WORKS & SERVICES DEPARTMENT

Dated Peshawar, the March 16, 2007

ORDER

No. SOE-I/W&S/1-6/78: The competent authority has been please to accept the appeal of Mr. Nazir Ahmed, Assistant Engineer against the minor penalty of "Censure" imposed upon him vide this department's order of even number dated 15.01.2007. The Works & Services Department accordingly withdraw its order dated 15.01.2007.

SECRETARY TO GOVT. OF NWFP
WORKS & SERVICES DEPARTMENT

Endst even number & date

Copy is forwarded to the:-

Sd/-

(ARSHAD KHAN)
SECTION OFFICER (Estb)

Endst even number & date

1. Accountant General NWFP, Peshawar.
2. Secretary to Govt. of NWFP, Establishment Department, Peshawar.
3. Chief Engineer Works & Services Peshawar.
4. Executive District Officer W&S Chitral.
5. District Accounts Officer Chitral.
6. PS to Secretary Works & Services Department, Peshawar.
7. PA to Addl: Secretary Works & Services Department, Peshawar.
8. PA to Deputy Secretary Works & Services Department, Peshawar.
9. Officer concerned.
10. Office file/Personal File.

SECTION OFFICER (Estb)

Alister
Section Officer (Litigation)
Khyber Pakhtunkhwa
C&W Department

Annex-V

18

GOVERNMENT OF NWFP
WORKS & SERVICES DEPARTMENT

Dated Peshawar, the March 16, 2007

ORDER

No. SOE-I/W&S/I-6/78 The competent authority has been pleased to accept the appeal of Mr. Nazir Ahmed, Assistant Engineer against the minor penalty of "Censure" imposed upon him vide this department's order of even number dated 15.01.2007. The Works & Services Department accordingly withdraw its order dated 15.01.2007.

SECRETARY TO GOVT. OF NWFP
WORKS & SERVICES DEPARTMENT

Endst of even number & date

Copy is forwarded to the:-

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

Endst of even number & date

1. Accountant General NWFP, Peshawar.
2. Secretary to Govt. of NWFP, Establishment Department, Peshawar.
3. Chief Engineer Works & Services Peshawar.
4. Executive District Officer W&S, Chitral.
5. District Accounts Officer Chitral.
6. PS to Secretary Works & Services Department, Peshawar.
7. PA to Addl. Secretary Works & Services Department, Peshawar.
8. PA to Deputy Secretary Works & Services Department, Peshawar.
9. Officer concerned.
10. Office file/Personal file.

SECTION OFFICER (ESTT-I)



Sy Allister

Section Officer (Litigation)
Khyber Pakhtunkhwa
C&W Department

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

Dated Peshawar, the March 28, 2006

ORDER

No. SOE/WS/CS/1-6/73

In terms of Section 4 of the NWFP Removal from Service (Special Powers) Ordinance, 2000, the competent authority is pleased to order the suspension from service of Mr. Nazir Ahmed (BS-17) Deputy Director (OPS) Works & Services Chitral, due to lack of interest and negligence in his official duties with immediate effect.

SECRETARY, TO GOV. OF N.W.F.P.
WORKS & SERVICES DEPARTMENT

Encl: No. & Date as above

Copy is forwarded for information & necessary action to the:

1. Accountant General, NWFP, Peshawar.
2. Secretary to Chief Minister, NWFP.
3. District Coordination Officer, Chitral.
4. PSO to Chief Secretary, NWFP.
5. Chief Engineer, Works & Services Deptt. NWFP, Peshawar.
6. Executive District Officer, Works & Services Chitral.
7. Deputy Director, Works & Services Chitral.
8. District Accounts Officer, Chitral.
9. PS to Secretary Works & Services Department, Peshawar.
10. PA to Addl. Secretary Works & Services Department, Peshawar.
11. Incharge Computer Cell, Works & Services Deptt. Peshawar.
12. Office Order/Personal File of the officer.

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

Handwritten signature and date: 28/3/06



Handwritten signature: C. A. H. H.

19(A)

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

Dated Peshawar, the March 28, 2006

ORDER

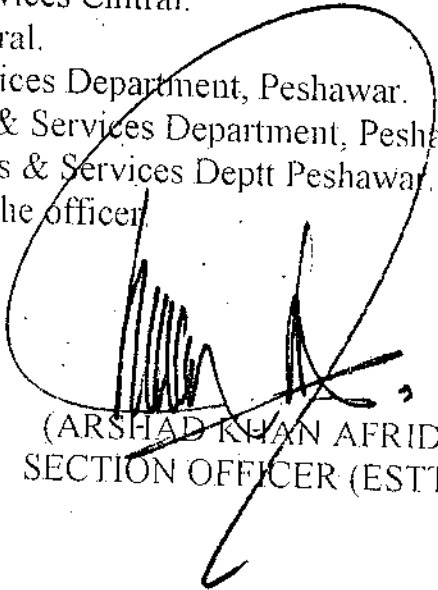
No.SOE-I/W&S/1-6/78 In terms of Section-4 of the NWFP Removal From Service (Special Powers) Ordinance 2000, the competent authority is pleased to order the suspension from service of Mr. Nazir Ahmed (BS-17), Deputy Director (OPS) Works & Services Chitral, due to lack of interest and negligence in his official duties, with immediate effect.

SECRETARY TO GOVT. OF N.W.F.P.
WORKS & SERVICES DEPARTMENT

Endst: No. & Date as above:

Copy is forwarded for information & necessary action to the:-

1. Accountant General, NWFP Peshawar.
2. Secretary to Chief Minister NWFP,
3. District Coordination Officer, Chitral.
4. PSO to Chief Secretary NWFP.
5. Chief Engineer Works & Services Deptt NWFP Peshawar.
6. Executive District Officer, Works & Services Chitral.
7. Deputy Director Works & Services Chitral.
8. District Accounts Officer Chitral.
9. PS to Secretary Works & Services Department, Peshawar.
10. PA to Addl: Secretary Works & Services Department, Peshawar.
11. Incharge Computer Cell Works & Services Deptt Peshawar.
12. Office Order/Personal File of the officer.


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

Ali Akbar
Section Officer (Litigation)
Khyber Pakhtunkhwa
C&W Department

NOTIFICATION

No. SOE-I/W&S/8-21/2006 WHEREAS, Mr. Nazir Ahmed Assistant Director (BPS-17) Works & Services Department, was proceeded against under the NWFP Removal from Service (Special Powers) Ordinance 2000, on account of irregularities in Developmental Schemes in Works & Services Chitral.

2. AND WHERE AS, for the act of misconduct he was served with charge sheet/statement of allegation to which he replied.
3. AND WHERE AS, an inquiry committee appointed comprising Engr. Abdullah Khan and Engr. Mohammad Usman who submitted its report.
4. AND WHERE AS, for the said act of misconduct he was served with show cause notice containing major penalty of "Dismissal from service" to which he submitted his reply.
5. NOW, THEREFORE, the competent authority, after having considered the charges, material on record, Inquiry report of the Inquiry Committee, explanation of the officer concerned, in exercise of the power conferred by Section-3 of the NWFP Removal from Service (Special Powers) Ordinance 2000, has been pleased to impose the major penalty of "Dismissal from Service" upon Mr. Nazir Ahmed Assistant Director (BPS-17) Works & Services Department with immediate effect.

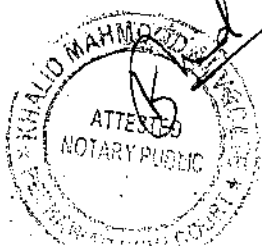
SECRETARY TO GOVT. OF NWFP
WORKS & SERVICES DEPARTMENT

Endst of even number & date

Copy is forwarded to the:-

1. Accountant General NWFP, Peshawar.
2. Chief Engineer Works & Services Peshawar.
3. Chief Engineer (FATA) Works & Services Peshawar.
4. Executive District Officer W&S Chitral.
5. Deputy Director W&S Chitral.
6. District Accounts Officer Chitral.
7. Manager Govt. Printing Press Peshawar.
8. PS to Chief Secretary NWFP, Peshawar.
9. PS to Secretary W&S Department, Peshawar.
10. PS to Deputy Secretary (Admn) W&S Department, Peshawar.
11. Officer concerned.
12. Office file/Personal file.

(KALIMULLAH KHAN BALOCH)
SECTION OFFICER (ESTT-I)



Section Officer (Liaison)
Khyber Pakhtunkhwa
C&N Department

Annex-VII

21

GOVERNMENT OF NWFP,
WORKS & SERVICES DEPARTMENT.

Dated Peshawar, the August 08, 2008

ORDER

No.SOE-IW&S/8-21/2006: In pursuance to the decision of the NWFP Services Tribunal dated 02.06.2008 in Service Appeal No.971/2007, the competent authority has been pleased to withdraw the major penalty "DISMISSAL FROM SERVICES" imposed upon Nazir Ahmed Assistant Director (BPS-17), Works & Services Department vide this department's order of even number dated 12.06.2007 and, therefore, Mr. Nazir Ahmed Assistant Director (BPS-17) Works & Services Department, is hereby directed to report to Works & Services Secretariat for further posting.

SECRETARY TO GOVT OF NWFP
WORKS & SERVICES DEPARTMENT

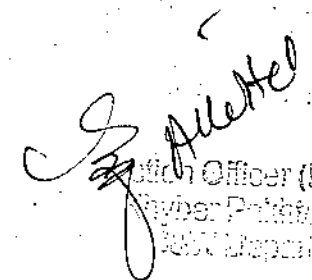
Endst of even number and date

Copy is forwarded to the:-

1. Accountant General NWFP, Peshawar.
2. Chief Engineer Works & Services Peshawar.
3. Chief Engineer FATA Works & Services Peshawar.
4. Executive District Officer Works & Services Chitral
5. Deputy Director Works & Services Chitral
6. Registrar NWFP Services Tribunal, Peshawar
7. District Accounts Officer Chitral.
8. PS to Chief Secretary NWFP, Peshawar
9. PS to Secretary, Works & Services Deptt Peshawar.
10. PA to Addl: Secretary, Works & Services Deptt Peshawar.
11. Officer concerned.
12. Office order File/Personal File.


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




Section Officer (Litigation)
Peshawar Peshawar
Works & Services Department

ITEM NO.1

WORKS AND SERVICES DEPARTMENT

(Meeting held on 12.7.2005)

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

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

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

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

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

Section Officer (PSB)
Govt. of NWFP
Establishment Dept.

Approved
(Signature)
Secretary (Establishment)
Works and Services Department

Annex-8

23

ADDITIONAL ITEM NO. (2)

COMMUNICATION & WORKS DEPARTMENT
(Meeting of PSB held on.07.08.2013)

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

71

Secretary C&W apprised the Board that Engineer Nazir Ahmad (now retired) while in service filed an appeal in Khyber Pakhtunkhwa Service Tribunal on 15.12.2009 for his promotion to the post of Executive Engineer BS-18. The Service Tribunal in its Judgment dated 19.01.2012 directed that his promotion case be placed before PSB within period of three months. A petition was filed in August Supreme Court of Pakistan which was dismissed on 17.01.2013.

His promotion case to the post of Executive Engineer BS-18 has been continuously considered since 2002 till his retirement in PSB meetings but the Board did not recommended him for promotion due to one reason or another. His promotion was last considered in PSB meeting held on 05.04.2010 and recommended to defer his promotion as the department intimated to the Board that enquiry was pending against him.

Now the department certified that there was no pending enquiry, charge sheet or statement of allegation against him. However before retirement a reference was received from CIE (North) C&W Peshawar regarding tender of the works shown as advertised in daily Surkhhab dated 21.01.2010 which, on verification was found fake hence his promotion was deferred in PSB meeting held on 05.04.2010. In the meanwhile he stands retired from service on 10.06.2010 attaining the age of superannuation and the enquiry proceedings was stopped in light of FR-54(A).

The Board observed that if he was not retired from service due to attaining the age of superannuation, enquiry proceeding would have initiated against him and he would not have been recommended for promotion as per promotion policy 2009 as officers against whom enquires are pending are to be recommended for deferment. Flexibility of stopping departmental proceeding in the light of FR-54(A) is allowed due to attaining the age of superannuation by the officer/official. It does not mean that there is no pending enquiry against him. His PER for the period from 01.01.2006 to 28.02.2009 are not available as he was remained under suspension, dismissed from service and waiting for posting.

The Board considered his Proforma promotion to the post of Executive Engineer BS-18 in pursuance of Service Tribunal Khyber Pakhtunkhwa Judgment dated 19.01.2012 and August Supreme Court of Pakistan Judgment dated 17.01.2013 and did not find him suitable for promotion due to his chequered service record.

Attah

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

[Signature]
Section Officer (Litigation)
Khyber Pakhtunkhwa
Govt. Department

ITEM NO (8)

COMMUNICATION & WORKS DEPARTMENT

(Meeting of PSB held on 25.09.2017)

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

Secretary C&W apprised the Board that Engineer Nazir Ahmad (now retired) while in service filed an appeal in Khyber Pakthukhwa Service Tribunal on 15.12.2009 for his promotion to the post of Executive Engineer BS-18. The Service Tribunal in its Judgment dated 19.01.2012 directed that his promotion case be placed before PSB within period of three months. A petition was filed in August Supreme Court of Pakistan which was dismissed on 17.01.2013.

His promotion case to the post of Executive Engineer BS-18 has been continuously considered since 2002 till his retirement in PSB meetings but the Board did not recommended him for promotion due to one reason or another. His promotion was last considered in PSB meeting held on 05.04.2010 and recommended to defer his promotion as the department intimated to the Board that enquiry was pending against him.

During the PSB meeting held on 07.08.2013 in pursuance of Service Tribunal judgment dated 15.12.2009 and Supreme Court of Pakistan Judgment dated 17.01.2013, the department certified that there was no pending enquiry, charge sheet or statement of allegation against him. However before retirement a reference was received from CE (North) C&W Peshawar regarding tender of the works shown as advertised in daily Surkhab dated 21.01.2010 which, on verification was found fake hence his promotion was deferred in PSB meeting held on 05.04.2010. In the meanwhile he stands retired from service on 10.05.2010 attaining the age of superannuation and the enquiry proceedings was stopped in light of FR-54(A).

The Board observed that if he was not retired from service due to attaining the age of superannuation, enquiry proceeding would have initiated against him and he would not have been recommended for promotion as per promotion policy 2009 as officers against whom enquires are pending are to be recommended for deferment. Flexibility of stopping departmental proceeding in the light of FR-54(A) is allowed due to attaining the age of superannuation by the officer/official. It does not mean that there is no pending enquiry against him. His PER for the period from 01.01.2006 to 28.02.2009 are not available as he was remained under suspension, dismissed from service and waiting for posting.

The Board therefore, considered his Proforma promotion to the post of Executive Engineer BS-18 in pursuance of Service Tribunal Khyber Pakthukhwa Judgment dated 19.01.2012 and August Supreme Court of Pakistan Judgment dated

Signature
Section Officer
Court of Khyber Pakthukhwa
Establishment Department

Signature
18.10.17



SECTION OFFICER (Estb)

Signature
Section Officer (Litigation)
Khyber Pakthukhwa
Establishment Department

17.01.2013 and did not find him suitable for promotion due to his chequered service record.

32
25

The officer concerned challenged the recommendation of the Board in its meeting held on 07.08.2013 in the Service Tribunal. The Service Tribunal in its judgment dated 19.10.2016 remitted the case again to the respondent department to be placed before PSB. Needless to mention that the PSB decision of 07.08.2013 stands set aside. Law department declared the case unfit for CPLA. The Secretary further apprised the Board that the post is available for actualization his promotion.

The Board discussed the item in detail and recommended that since overall record of the Officer is not good and enquiry proceeding against him was not finalized and decided on merit. But the enquiry was abated due to his retirement on attaining the age of superannuation, therefore not found eligible for Proforma promotion.

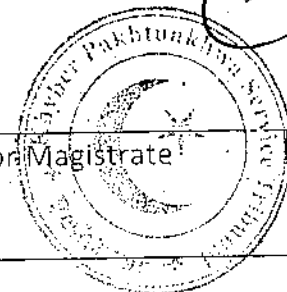
M. A. Khan
Section Officer (PSB)
Govt. of Khyber Pakhtunkhwa
Establishment Department

Department, Peshawar
OFFICER (Estb)

M. A. Khan
SECTION OFFICER (Estb)



S. A. Khan
Section Officer (Establishment)
Khyber Pakhtunkhwa
G&W Department



26

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL		
<u>Appeal No. 43/2018</u>		
Date of Institution ... 10.01.2018		
Date of Decision ... 17.01.2020		

Nazir Ahmed Khan Deputy Director (Retired) C&W Department		
District Chitral. -----Appellant		
<u>Verstus</u>		
Chief Secretary Government of Khyber Pakhtunkhwa Peshawar and		
five (05) others -----Respondents		

Muhammad Amin Khan Kundi.....Member(J)		
Mr. Hussain Shah.....Member (E)		
17.01.2020	<u>JUDGMENT</u>	
Mr. HUSSAIN SHAH:-Learned counsel for the appellant and Mr.		
Usman Ghani learned District Attorney for the respondents present.		
2. It is the third round of litigation as the case came up before this		
Tribunal in appeal No.1758/2009 which was disposed of by accepting		
that appeal by this Tribunal in its order dated 19.01.2012 wherein the		
respondents were directed to considered the name of the appellant in PSB		
within three (03) months. That order was challenged by the respondents		
in the august Supreme Court of Pakistan vide C.P No. 170/2012 which		
was dismissed on 17.01.2013. Subsequently the name of the appellant		
was put before the PSB but the appellant was not found suitable for		
promotion which was communicated to the appellant on 11.09.2013. In		
the second round of litigation the appeal No. 1608/2013 was preferred		
which was decided on 19.10.2016 wherein it was observed by the		
Tribunal that the decision of the PSB in its impugned meeting held on		
07.08.2013 appears not to be justify and the case of the appellant had not		
been legally and meaningfully considered as required. With the above		
observation the service Tribunal in the same judgment remitted again		

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Section Officer (Litigation)
Khyber Pakhtunkhwa
C&W Department

Section Officer
Khyber Pakhtunkhwa
Service Tribunal

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

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

Muhammad Amin
(Muhammad Amin Khan Kundi)
Member

Hussain Shah
(Hussain Shah)
Member

ANNOUNCED
17.01.2020

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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Section Officer (Litigation)
Khyber Pakhtunkhwa
CSW Department

Annex - XIII

22



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar, the October 27, 2020

NOTIFICATION:

No.SOE/C&WD/13-2/2018: In light of the Khyber Pakhtunkhwa Service Tribunal judgment dated 17.01.2020, the Competent Authority is pleased to appoint the following Scrutiny Committee to consider the case of Engr. Nazir Ahmad Assistant Engineer (BS-17) C&W Department (now retired) for the purpose of proforma promotion and make recommendations to the Provincial Selection Board (PSB) on humanitarian basis, as described below:-

1. Additional Chief Secretary, Khyber Pakhtunkhwa -- In chair
2. Secretary to Govt of Khyber Pakhtunkhwa Establishment Department -- Member
3. Secretary to Govt of Khyber Pakhtunkhwa Finance Department -- Member
4. Secretary to Govt of Khyber Pakhtunkhwa Law Department -- Member
5. Secretary to Govt of Khyber Pakhtunkhwa C&W Department -- Member

CHIEF SECRETARY
Government of Khyber Pakhtunkhwa

Endst of even number and date

Copy is forwarded to the:-

1. Additional Chief Secretary Govt of Khyber Pakhtunkhwa P&D Department, Peshawar
2. Secretary to Govt of Khyber Pakhtunkhwa Establishment Department, Peshawar
3. Secretary to Govt of Khyber Pakhtunkhwa Finance Department, Peshawar
4. Secretary to Govt of Khyber Pakhtunkhwa Law Department, Peshawar
5. PS to Chief Secretary, Khyber Pakhtunkhwa Peshawar
6. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar
7. Copy of an approved Note by Chief Secretary Khyber Pakhtunkhwa along-with its relevant documents are sent herewith to Section Officer (PSB) Establishment Department, Peshawar with the request to convene a meeting of Scrutiny committee to consider the case.
8. PS to Secretary C&W Department, Peshawar
9. Office File

Zahoor Shah
27.10.2020
(ZAHOOR SHAH)
SECTION OFFICER (Estb)

Zahoor Shah
Section Officer (Litigation)
Khyber Pakhtunkhwa
C&W Department

BK
29-10-2020

o/c

Annex-XIV 2020
(29)

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


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


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


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


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


4. The meeting ended with mutual vote of thanks.

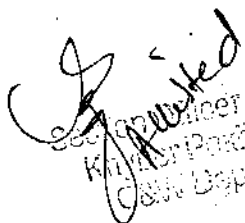

(MR. MUTAHIR ZEB)
Secretary to Government of
Khyber Pakhtunkhwa
Establishment Department
(Member)


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


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


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


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


Additional Chief Secretary
Government of Khyber Pakhtunkhwa
C&W Department

ITEM NO. (19)

COMMUNICATION & WORKS DEPARTMENT

(Meeting of PSB held on 31.07.2021)

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

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

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

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

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

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 Section Officer (Legal Services)
 Khyber Pakhtunkhwa
 Government of Khyber Pakhtunkhwa

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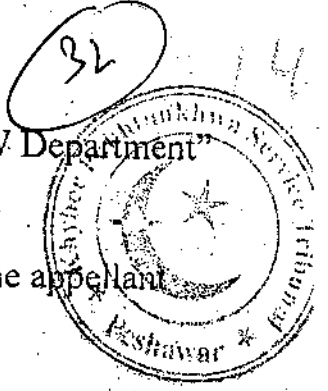
5. Accordingly, the Scrutiny Committee held its meeting on 09.12.2020 and the Committee recommended the proforma promotion case of the appellant to the post of Executive Engineer BS-18 w.e.f 10.06.2010, one day before his retirement for the consideration of the PSB. However, the Committee did not recommend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

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

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

Section Officer (PSB)
Govt of Khyber Pakhtunkhwa
Establishment Department

Alister
Section Officer (Litigation)
Khyber Pakhtunkhwa
C&W Department



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

ORDER

1st Nov. 2023

Kalim Arshad Khan, Chairman: Learned counsel for the appellant

present and heard.

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

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

Attested
Secretary (Legal Services)
Khyber Pakhtunkhwa
C&W Department

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

Attested
Secretary (Legal Services)
Khyber Pakhtunkhwa
C&W Department

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

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

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

Certified to be true copy

MUNIR
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



(Kalim Arshad Khan)
Chairman

Muazem Shah*

Date of Presentation of Application 01-11-23

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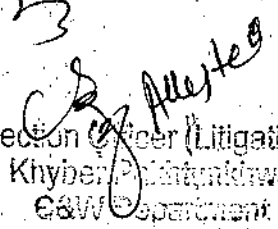
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Section Officer (Litigation)
Khyber Pakhtunkhwa
C&W Department




 GOVERNMENT OF KHYBER PAKHTUNKHWA
 COMMUNICATION & WORKS DEPARTMENT

 No. SOE/C&WD/13-2/2018
 Dated Peshawar, the May 30, 2024

To

 30 * Engr. Nazir Ahmad,
 Retired Executive Engineer (BS-18), C&W Department.
 25.6.24 P.M. Village Mirkhani Po Dosh, Distt Chitral.

SUBJECT: WIRT PETITION NO. 5332-P/2023 ENGR. NAZIR AHMAD XEN RETIRED C&W DEPARTMENT VS GOVT. OF KHYBER PAKHTUNKHWA & OTHERS.

I am directed to refer to the subject noted above and to state that you filed the subject W.P. No. 5332-P/2023 in Peshawar High Court Peshawar with the plea that the impugned Notification dated 05.08.2021 may be declared illegal, whereby you were granted proforma promotion to the post of Executive Engineer (BS-18) C&W Department w.e.f 09.06.2010 instead of 08.02.2003 and not granting sub sequent proforma promotion to the post of Superintending Engineer (BS-19) w.e.f 31.12.2008. The Court has disposed of the said petition on 16.01.2024 with the verdict to treat the instant writ petition as Departmental representation and office is directed to transmit the same before respondent No.1 who in turn place the same before the Competent Authority for its onward decision. If in case the petitioner could not receive a favorable decision then he is at liberty to agitate the matter before the competent forum.

2. As per court directions, the case was placed before the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) who rejected your departmental representation and plea taken in the subject writ petition as the PSB in its meeting held on 13.07.2021 considered your proforma promotion case and recommended for granting proforma promotion to the post of Executive Engineer (BS-18) w.e.f 09.06.2010 (one day before his retirement). The PSB, however, did not recommend your proforma promotion to the post of Superintending Engineer (BS-19) observing that performance was required to be evaluated for promotion to next grade while you had already retired from service in BS-17 on 10.06.2020 on attaining the age of superannuation, meaning thereby you have already availed the facility of proforma promotion.

3. You are hereby informed accordingly.

30.05.2024

SECTION OFFICER (Estb)

 Accepted
 Section Officer (Litigation)
 Khyber Pakhtunkhwa
 C&W Department

Endst: Even No. & Date

Copy forwarded to the:

1. Registrar Peshawar High Court, Peshawar.
2. Section Officer (Lit) C&W Department.
3. PS to Secretary C&W Department, Peshawar.
4. PA to Additional Secretary (Admn) C&W Department Peshawar.
5. PA to Deputy Secretary (Admn) C&W Department Peshawar.

 30.05.2024
 SECTION OFFICER (Estb)

 10.01.24
 P.N.
 2/6/24