

**BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER**  
**PKAHTUNKHWA**

12 (2) CPC Petition No.886/2024

In E.P No. 45/2023

In Service Appeal No. 407/2017

Saleem Khan s/o Noor Ali khan .....**Appellant**

**Versus**

Secretary E&SE Department Govt. of Khyber Pakhtunkhwa & Others

.....**Respondents**

**INDEX**

<b>S. NO</b>	<b>Description of Documents</b>	<b>Annexure</b>	<b>Pages</b>
1	Parawise Comments	-----	1-6
2	Affidavit	---	7
3	Authority letter	---	8
4	Copy of the order sheet dated 18-10-2022,	<b>A</b>	9
5	Copy of Notification dated: 28-01-2013 and 02-08-2017	<b>B and C</b>	10-14
6	Copy of the DPC meeting minutes dated 01-03-2024	<b>D</b>	15-16
7	Copy of the notification dated 09-05-2024	<b>E</b>	17
8	Copy of Judgment dated 19-04-2024	<b>F</b>	18-20

13-11-24

**District Education Officer**  
**Mohmand**  
**(Respondents No. 3)**

**BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER  
PKAHTUNKHWA**

12 (2) CPC Petition No.886/2024

In E.P No. 45/2023

In Service Appeal No. 407/2017

Saleem Khan s/o Noor Ali khan .....**Appellant**

**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 16180

Dated 30-09-2024

**Versus**

Secretary E&SE Department Govt. of Khyber Pakhtunkhwa & Others

.....**Respondents**

**Joint Parawise Comments on behalf of Respondents No.03**

**Preliminary objections.**

1. That the appellant has got no cause of action / locus standi to file instant Appeal.
2. That the judgment of the Hon'ble Service Tribunal is justified and is based on merits as well in accordance with law thus bringing the applicant under section 12 (2) of CPC 1908, is baseless and have no roots under the law.
3. That the answering respondents being a Competent Authority have acted in accordance with law by observing all the codal formalities and while doing so no right of the Appellant has ever been violated.
4. That the appellant has concealed material facts from this Honorable Tribunal in the titled matter.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant case has been duly considered by the respondents and following the codal formalities, he is not entitled for the relief of granting promotion from the post of Lab Attendant (Class IV) to Junior Clerk neither under the E&SED Khyber Pakhtunkhwa notification/policy 2013 nor in accordance with the E&SED Khyber Pakhtunkhwa notification/policy 2017.
7. That the Appellant has not come to this Honorable Tribunal with clean hands.

8. That the Appeal is not maintainable in its present form being devoid of merits.
9. That the instant appeal is based on malafide intentions aimed at exerting illegal pressure on the answering respondent to gain unlawful benefits.

**ON FACTS.**

1. Correct, to the extent that the appellant filed a Service appeal No. 407/2017 which was decided by the Hon'ble Tribunal vide its judgment dated 18-10-2022 which is reproduced here as "*At the very outset, learned counsel for the appellant stated at the bar that the appellant would be satisfied if direction is issued to the respondents to consider him in accordance with relevant rules and law for promotion to the post of Junior Clerk in the upcoming meeting of DPC. Respondents shall consider the appellant for promotion to the concerned post in the forth coming meeting of DPC in accordance with relevant rules and law. Disposed of accordingly*". It is pertinent to mentioned over here, that in compliance of the judgment of the Hon'ble Tribunal, the respondent duly considered the appellant in accordance with the prescribed rules, policy and law, however, the appellant was neither fulfilling the required criterion as prescribed under the E&SED Khyber Pakhtunkhwa notification/policy 2013 for the promotion of Class IV to the post of Junior Clerk, nor he was eligible to be promoted under the &SED Khyber Pakhtunkhwa notification/policy 2017 being lower in the seniority list as he stands on serial No.148 of the seniority list, hence was not promoted. **(Copy of the order sheet dated 18-10-2022, and Notification dated: 28-01-2013 and 02-08-2017 are attached as annexure A, B and C)**

2. Para- 2 of the appeal pertains to the service records of the appellant hence needs no comments from the answering respondents.
3. Incorrect to the extent that the answering respondents in compliance of the judgment of the Hon'ble Tribunal has duly notified and maintained a seniority list in accordance with which the appellant stands on Serial. No. 148 of the seniority list, hence being low in merit the appellant is not entitled to be promoted to the post of junior Clerk. **(Copy of the DPC meeting minutes dated 01-03-2024 is attached as annexure D)**
4. The first part of the para is incorrect, hence denied while the second part is correct to the extent that the appellant has filed the writ petition No. 1051/2013 and 2537/2013, and in compliance of the judgment of the Court, the appellant was already considered by the respondents and as the appellant was not fulfilling the required criterion, therefore, he was not promoted to the post of junior clerk.
5. That in compliance of the judgment of the Hon'ble Service Tribunal, the answering respondents has already duly considered the appellant case under the applicable policies of the government, whereby he is being lower in the seniority list as he has stands on S. No. 148 and is not entitled to be promoted.
6. Incorrect, hence denied. The respondent being bound by law are always sternly adhere to follow and comply with the judgments of the Hon'ble Tribunal in letter and spirit. In this regard, in compliance of the Judgment dated 18-10-2022 of the Hon'ble Tribunal, the answering respondents has duly considered the appellant case in accordance with law but being lower in the

seniority list, he was not entitled to be promoted to the post of junior clerk. **(see annexure D)**

- 7. Incorrect, hence denied. The answering respondents has duly complied with the Judgment of the Hon'ble Tribunal and in compliance of the judgment the Hon'ble Tribunal, has duly considered the appellant case but being lower in the seniority list (S.No.148), he was not entitled to be promoted.
- 8. The plea of the appellant in Para-8 as composed is incorrect, hence denied. In fact, the appellant is trying to mislead the Hon'ble Tribunal without showing any substantial reason and evidence. As elucidated in the above para's the appellant was low in the seniority list as he was stands on serial No. 148, and that fact was supported by presenting the meeting minutes before the Hon'ble Service Tribunal which was accepted and in pursuance of that the Hon'ble Service Tribunal announced the Judgment dated 19-04-2024. It is noteworthy that the Hon'ble Service Tribunal has taken into consideration all the facts and circumstance of the case and after due diligence and following the procedures has decided the execution petition vide its judgment dated 19-04-2024 wherein it was specifically mentioned that the judgment dated 18-10-2022 was duly complied by the respondents. Hence bringing the instant application is baseless, based on malafide and has no footing under the law and therefore liable to be dismissed.
- 9. Incorrect, hence denied. The then DEO Mohmand (i.e., Mr. Liaqat Ali) was performing his duty on the post of DEO Mohmand till his posting/transfer order vide Notification dated 09-05-2024, and therefore, the action taken by the then DEO

Mohmand while performing his official duty was in accordance with law. **(Copy of the notification dated 09-05-2024 is attached as annexure E)**

10. Incorrect, hence denied. The Departmental Promotion Committee (DPC) meeting dated 01-03-2024 was conducted in compliance of the Hon'ble Service Tribunal order sheet dated 22-02-2024 and the said meeting minutes was submitted before the Hon'ble Service Tribunal which was accepted and in pursuance of that the Hon'ble service tribunal issued the judgment dated 19-04-2024. **(Copy of Judgment dated 19-04-2024 is attached as annexure F)**
11. Incorrect, hence denied. The detailed reply has already been elucidated in the above para.
12. The plea of the appellant in Para-12 as composed is incorrect, hence denied. If the Appellant is aggrieved from the judgment dated 19-4-2024 of the Hon'ble Service Tribunal, then the appellant is at liberty to approach the relevant forum as provided under the law.
13. Incorrect, hence denied. The detail reply has already been given in the above para on facts.
14. Incorrect, hence denied. The detail reply has already been given in the above para on facts.
15. That para 15 is legal, hence need no comments.

**Grounds:**

- A. Incorrect, hence denied. The answering respondents has treated the appellant in accordance with law. Moreover, the Hon'ble Service Tribunal has duly taken into consideration all facts and circumstances of the appellant's appeal and thus decided,

hence, bringing the instant application is baseless and has no footing under the law.

- B.** Incorrect hence denied. The details reply has already bene elucidated in the preceding para.
- C.** That Para **C** describes the principle of natural justice; However, it is noteworthy that respondents have never deviated from the prescribed procedures and law and therefore, the action taken by the respondents in the appellant's case are in accordance with law and is required to be maintained.
- D.** That Para **D** is legal hence need no comments.
- E.** Incorrect, hence denied. The detailed reply has already been given in the above paras.
- F.** Incorrect, hence denied. The appellant was treated in accordance with law and while doing so no right of the appellant has ever been violated.
- G.** Incorrect, hence denied. The detailed reply has already been given in the above paras.
- H.** The respondents also seek leave to produce additional grounds, records and case law at the time of arguments of the instant application.

**Prayer:**

In the light of the above stated factual and legal position, the respondents are most humbly prayed that the application of the appellant may kindly be ordered as dismissed in favor of the respondents.



(Sheraz Ahmad)  
**District Education Officer**  
**Mohmand**  
**(Respondents No. 3)**

**BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER  
PKAHTUNKHWA**

12 (2) CPC Petition No.886/2024

In E.P No. 45/2023

In Service Appeal No. 407/2017

Saleem Khan s/o Noor Ali khan .....**Appellant**

**Versus**

Secretary E&SE Department Govt. of Khyber Pakhtunkhwa & Others

.....**Respondents**

**AFFIDAVIT**

I, Sheraz Ahmad, do hereby declare and affirm on oath that the contents of the above comments/reply are true and correct to the best of my knowledge and thereof nothing has been concealed from this Hon'ble Tribunal.

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



**Deponent**

Sheraz Ahmad  
CNIC# 16202-0947162-7  
Cell# 0341-1959135

ATTESTED  
Abdul Rashid Advocate  
NOTARY PUBLIC  
Peshawar P.K. Pak  
30 SEP 2024



**AUTHORITY LETTER**

I, Sheraz Ahmad, District Education Officer Mohmand (M), do hereby authorized Mr. Javed Khan, CT (Legal representative) of this office for submission of comments/reply in 12(2) CPC petition No.886/2024, in E.P No. 45/2023, in Service appeal No. 407/2017, Titled Saleem Khan VS Secretary (E&SE), Khyber Pakhtunkhwa and others, hence and authority letter is hereby issued.



**(Sheraz Ahmad)**

**District Education Officer (M)**

**Mohmand**

"A"

9

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

Service Appeal No. 407/2017

Date of institution ..... 25.04.2017



Saleem Khan S/o Noor Ali, Lab Attendant (BPS-02) Govt. Higher Secondary  
School, Chalanai, Mohmand Agency

VERSUS

District Education Officer Mohmand at Ghalanai District Mohmand and two others

ORDER  
18.10.2022

Messrs Fazal Shah Mohmand & Noor Muhammad Khattak  
Advocates for the appellant present. Mr. Behramand Khan, Assistant  
Director alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant  
Advocate General for the respondents present.

At the very outset, learned counsel for the appellant stated at the  
bar that the appellant would be satisfied if direction is issued to the  
respondent to consider him in accordance with relevant rules and law  
for promotion to the post of Junior Clerk in the upcoming meeting of  
DPC. Respondents shall consider the appellant for promotion to the  
concerned post in the forth coming meeting of DPC in accordance with  
relevant rules and law. Disposed of accordingly. Parties are left to bear  
their own costs. File be consigned to the record room.

ANNOUNCED  
18.10.2022

**Certified to be true copy**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(MIAN MUHAMMAD)  
MEMBER (EXECUTIV)

(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

**APPROVED**

10

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156



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT  
Peshawar, dated the 28<sup>th</sup> January, 2013

**NOTIFICATION**

**No.SO(PE)/4-10/SSRC/Ministerial Staff/2013:-** In pursuance of the provisions contained in sub rule (2 ) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules,1989, and in supersession of all rules issued in this behalf to the extent of the Elementary and Secondary Education Department the (E&SE Department) in consultation with the Establishment Department and Finance Department hereby lays down the method of recruitment, qualifications and other conditions specified in Column 3 to 5 of the Appendix to this Notification which shall be applicable to the posts borne on the ministerial establishment in the Elementary and Secondary Education Department specified in Column No.2 of the said Appendix.

**APPENDIX**

S. NO	NOMENCLATURE	MINIMUM QUALIFICATION AND EXPERIENCE FOR INITIAL APPOINTMENT OR BY TRANSFER	AGE LIMIT	METHOD OF RECRUITMENT (EXISTING)
1	2	3	4	5
1.	Deputy Director (Finance and Accounts) /Deputy Director (Administration) (BPS-18)		-	By promotion on the basis of seniority-cum-fitness from amongst the Assistant Directors (Finance and Accounts) & Assistant Directors (Administration) with at least five years service as such.
2.	Assistant Director (Finance and Accounts) / Assistant Director (Administration) (BPS-17)		-	By promotion on the basis of seniority cum fitness from amongst the Budget and Accounts Officers with at least two years service as such.
3.	Budget and Accounts Officer. (BPS-16)		-	By promotion on the basis of seniority cum fitness from amongst the Superintendents with at least two years service as such.
4.	Superintendent (BPS-16)		-	By promotion on the basis of seniority cum fitness amongst the holders of the posts of Assistants and Senior Scale Stenographers with at least five years service as such.
5.	Senior Scale	(i) At least Second Class Bachelor's Degree or equivalent	20 to 30	By promotion on the basis of seniority cum

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	Stenographers (BPS-16)	qualification from a recognized University; (ii) Speed of Seventy words per minute in shorthand in English and Forty Five words per minute in typing; and (iii) Knowledge of Computer in using MS words and MS Excel.	Years	fitness from amongst the Junior Scale Stenographers (BPS-14) with at least five years service as such.
6.	Assistant (BPS-14)	At least Second Class Bachelor's Degree from a recognized University	20 to 30 Years	(a) Seventy five per cent by promotion, on the basis of seniority-cum-fitness from amongst the Senior Clerks with at least five years service as such; and (b) Twenty five per cent by initial recruitment
7.	Junior Scale Stenographers (BPS-14)	(i) Intermediate or equivalent qualifications from a recognized Board; (ii) Speed of Fifty words per minute in shorthand in English and Thirty Five words per minute in typing; and (iii) Knowledge of Computer in using MS words and MS Excel.	18 to 30 Years	By Initial recruitment
8.	Senior Clerks (BPS-09)			By promotion on the basis of seniority cum fitness from amongst the Junior Clerks, Assistant Store Keepers and Laboratory Assistants with at least two years service as such.
9.	Junior Clerk/Assistant Store Keeper/ Laboratory Assistant (BPS-07)	(i) For Junior Clerk / Assistant Store Keepers having at least Second Division in Secondary School Certificate or equivalent qualifications from a recognized Board and a speed of twenty five words per minute in typing ; (ii) For Laboratory Assistants having at least Second Division in Secondary School Certificate or equivalent qualifications from a recognized Board with Science.	18 to 30 Years	(a) Thirty Three per cent by promotion, on the basis of seniority-cum-fitness from amongst the Daftaries, G/Operators, Qasids and Naib Qasids including other equivalent posts in the attached department /offices/institutions with at least Two years service as such and having qualification mentioned in column No. 3. (b) Sixty Seven per cent by initial recruitment <b>Note:</b> - For the purpose of promotion, there shall be maintained a joint seniority list of Daftaries, Gestetner Operators, Qasids, Naib Qasids etc including other equivalent posts in the attached department /offices/institutions with reference to the dates of their regular appointment or acquiring Secondary School Certificate whichever is later.

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154

10.	Driver (BPS-04)	Having valid Driving License and preferably Literate.	18 to 32 Years	By Initial recruitment
11.	Naib Qasid /Chowkidar/ Behshti/Cook/Bearer/ Shop Attendant/ Laboratory Attendant etc	Preferably Literate	18 to 30 Years	By Initial recruitment

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Endst : of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.

DEPT. OF  
ELEMENTARY  
EDUCATION  
PESHAWAR

- 20. PS to Minister ERSE Khyber Pakhtunkhwa, Peshawar.
- 21. PS to Secretary ERSE Khyber Pakhtunkhwa, Peshawar.
- 22. Master file

*[Signature]*  
SECTION OFFICER (Primary)

**APPROVED**  
*[Signature]*

(25) C 14  
Amendment 201

D/S

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

**NOTIFICATION**

Peshawar, dated the August 2, 2017.

**No. SO(PE)A-10/SSRC/Ministerial staff/2013:** In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department, in consultation with the Establishment Department and the Finance Department, hereby directs that in this Department's Notification No. SO(PE)A-10/SSRC/Ministerial Staff/2013 dated: 28.01.2013, the following amendments shall be made, namely:

**AMENDMENTS**

In the Appendix:-

(i) Against Sr. No. 9, in column No. 5(a), for the existing entry, the following entry in column 5 (a) shall be substituted:

✓ a). Thirty three per cent by promotion on the basis of Seniority-Cum-Fitness from amongst the Dastaries, O/Operators, Qasids and Naib Qasids including other equivalent posts in the attached department/offices/institutions with two year service as such having SSC qualification.

**SECRETARY**

Endst. No. & Date as above.

Copy forwarded to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department.
4. The Secretary to Govt. of Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General, Khyber Pakhtunkhwa Peshawar.
6. The Director (E&SE) Khyber Pakhtunkhwa Peshawar.
7. The Director Education (FATA) Khyber Pakhtunkhwa, Peshawar.
8. The Director Curriculum & Teachers Education Abbottabad.
9. The Director (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director ESRU, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
11. The Deputy Director (EMIS) E&SE Department.
12. All Deputy Commissioners in Khyber Pakhtunkhwa.
13. All District Education Officers, Elementary & Secondary Education Khyber Pakhtunkhwa.
14. All District Accounts Officers, Khyber Pakhtunkhwa /Agency Accounts Officers.
15. All Agency Education Officers.
16. P.S to Governor, Khyber Pakhtunkhwa.
17. P.S to Chief Minister, Khyber Pakhtunkhwa.
18. P.S to Chief Secretary, Khyber Pakhtunkhwa.
19. PS to Minister E&SE Khyber Pakhtunkhwa Peshawar.
20. PS to Secretary E&SE Department.
21. Mr. Akbar Khan Mohmand, Provincial President Class-IV Association, Khyber Pakhtunkhwa.
22. Master File.

(NAIK MUHAMMAD)  
SECTION OFFICER (PRIMARY)

**ATTACHED**

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15



OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) DISTRICT MOHMAND  
Email: deomohmand@gmail.com



**MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE HELD AT DIRECTORATE OF E&SE KHYBER PAKHTUNKHWA PESHAWAR ON 1/3/2024 AT 10:00 AM**

In compliance of the honorable Khyber Pakhtunkhwa Service Tribunal Peshawar order sheet dated 22/2/2024, the subject Meeting of Departmental Promotion Committee was held on 1/3/2024 at 10:00 a.m. under the chairmanship of District Education Officer (M) District Mohmand.

The following officers/officials attended the meeting.

- |  |                    |
|--|--------------------|
| 1. Liaqat Ali DEO (M) Mohmand                                    | Chairman           |
| 2. Zia Ullah Assistant Director Directorate of E&SE KP Peshawar. | Member             |
| 3. Muhammad Allah DDEO (M) Mohmand.                              | Member             |
| 4. Noor Badshah LR Litigation DEO (M) Mohmand.                   | Member             |
| 5. Aziz ur Rahman S/Clerk & DA DEO (M) Mohmand.                  | Facilitator/Member |

**CRITERIA FOR PROMOTION FROM CLASS IVs TO JUNIOR CLERK BS-11** As per Service Rules notified vide Govt. of Khyber Pakhtunkhwa Elementary & Secondary Department No SO(PE)/4-10/SSRC/Ministerial Staff/2013 dated 28/1/2013 reproduced as "(a) Thirty three percent by promotion on the basis of seniority cum-fitness, from amongst the Dastaries, G/Operators, Qasids & Naib Qasids including other other equivalent posts in the attached department /offices/institutions with at least Two (02) years' service as such and having qualification mentioned in column No 3 i.e. (i) For Junior clerk /Assistant Store Keeper having at least Second Division in Secondary School Certificate or equivalent qualification from a recognized Board and a speed of twenty five words per minute in typing"

**PROCEEDINGS OF THE MEETING:** The meeting was started with recitation of verses from the Holy Quran. The Chair welcomed all the participants. Mr. Aziz Ur Rehman (DA) placed the case of Mr Saleem Khan Lab Attendant and briefed the forum about the judgement dated 18/10/2022 in S/Appeal No 407/2017 E.P No 45/2023 which is reproduced as "At the very outset, learned counsel for the appellant stated in the bar that the appellant would be satisfied if direction is issued to the respondents to consider him in accordance with relevant rules & law for promotion to the post of Junior clerk in the upcoming meeting of DPC. Respondents shall consider the appellant for promotion to the concerned post in the forthcoming meeting of DPC in accordance with relevant rules & law." He briefed the forum that as per order sheets of the honourable Tribunal dated 27/4/2023 & 23/5/2023 & 16/6/2023 in which the respondents were directed to finalize the seniority list come up with further progress including working paper for meeting of DPC and its minutes. So in compliance of the Honourable Service Tribunal judgement dated 18/10/2022, his case was already discussed in the DPC meetings held on 26/7/2023 & 16/11/2023 & the DPC unanimously rejected his plea that he did not fall in the promotion zone as his seniority No was 148 in the Seniority List as stood on 27/4/2023 & the same was submitted to the honourable Tribunal on the dates of hearing. He further briefed the forum that the case was heard in the Tribunal on 27/11/2023 & the order Sheet reproduced as "Representative of the respondents produced copy of minutes of DPC held on 16.11.2023 according to which the petitioner did not fulfil the criteria for promotion to the post of J/C." He also briefed the forum that in pursuance of the rule 8 (5) of the Civil Servants Act, 1973 & Directorate of E&SE Khyber Pakhtunkhwa letter No 8971-73 dated 21/12/2023, seniority list of all Class IVs was updated & circulated vide DEO (M) Mohmand office No 11307-42 dated 31/1/2024 in which the seniority No of the appellant is 144 now. He added that the appellant wants promotion on old seniority list of only 18 Male/Female Schools class IV before bifurcation of DEO (previous AEO) offices into Male/Female as his contention is that the then AEO promoted some class IVs out of turn while this office made a new seniority list of 428 Male Schools class IV as stood on 27/4/2023. The dealing clerk also informed the forum that letter was written to the appellant on dated 26/2/2024 regarding provision of all the relevant documents in original along with his service book which was registered on his home address vide P.O Ghallunai Registry No 1243 dated 28/2/2024 and also handed over the copy of the same to him on 28/2/2024 for provision of his documents and service book. The appellant promised that he will provide his documents on 29/2/2024 but in vain. He further briefed the forum that the appellant not only refused to take the mandatory Typing test but also refused to hand over his documents to the then committee of 2013 chaired by Mr. Sardar Hussain, presently serving as Principal GHS Ekka Ghund who handed over an attested document to this office on 29/2/2024 reflecting his refusal of provision of his documents, CNIC, Service book & refusal to take typing test. (Attached)

Mr. Noor Badshah, the Legal Representative Litigation of DEO (M) Mohmand briefed the forum that Mr. Saleem Khan, the appellant had filed Service Appeal in the Khyber Pakhtunkhwa Service Tribunal vide Diary No 417 dated 25/4/2017 inspite of the fact that he was ineligible for promotion from class IV to J/C as per the said service rules as the appellant, Mr. Saleem Khan Lab Attendant has got 325 out of 850 in his matric from BISE

**ATTESTED**



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16

Peshawar in 3<sup>rd</sup> Division under Roll No 68642 in the Session 1996 which was also commented in the Respondents para wise reply No 3 of the facts submitted to the honourable Khyber Pakhtunkhwa Service Tribunal. He further stated that the honourable Chairman Service Tribunal Khyber Pakhtunkhwa directed verbally on 22 & 23 Feb, 2024 that his case be considered as per old seniority list of just 18 officials (combine Male/Female) & last chance given to DEO (M) Mohmand to implement the order of the Tribunal within 15 days & to come up on 11/3/2024.

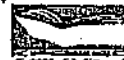
**DECISION OF THE COMMITTEE:** After threadbare discussion & examining the instant case, the committee unanimously decided that Mr. Saleem Khan, the appellant filed his service appeal in the Khyber Pakhtunkhwa Service Tribunal vide Diary No 417 dated 25/4/2017 for promotion from class IV to Junior clerk in spite of the fact that he was not eligible for promotion from Class IV to Junior clerk as he had got 325/850 marks in the Matric from BISE Peshawar in 3<sup>rd</sup> Division, as per notification vide Govt. of Khyber Pakhtunkhwa Elementary & Secondary Department No. SO (PE)4-10/SSRC/Ministerial Staff/2013 dated 28/1/2013. So his appeal is regretted as he had no locus standi and the LR Litigation DEO (M) Mohmand should communicate the minutes of the meeting to the honourable Khyber Pakhtunkhwa Service Tribunal accordingly.

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

S.No	Name & Designation	Signature
1	Liaqat Ali DEO (M) Mohmand	
2	Zia Ullah Assistant Director Directorate of E&SE KP Peshawar	
3	Muhammad Afiaz DDEO (M) Mohmand	
4	Noor Badshah LR Litigation DEO (M) Mohmand	
5	Aziz Ur Rehman S/clerk & DA DEO (M) Mohmand	



OFFICE OF  
THE DISTRICT EDUCATION OFFICER (M)  
DISTRICT MOHMAND



DEO\_MOHMAND DEO\_MOHMAND DEO\_MOHMAND DEO\_MOHMAND@GMAIL.COM DATE: -02-234-280100

Encls: No. 11748-54

Dated 01/03/2024

Copy forwarded to the:

1. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. PS to Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar.
3. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
4. District Account Officer Mohmand.
5. All Committee Members.
6. I/C HM GHS Musa Kor to communicate to Mr. Saleem Lab Attendant under intimation to this office.
7. Master File.

District Education Officer  
(Male) Mohmand  
1/3/2024



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Phone No. 091-9210626

17

Dated, 9<sup>th</sup> May, 2024

**NOTIFICATION**

**NO.SO (MC) E&SED/4-16/2023/PT/DEOs/Mmd/Dir(L)** In light of Hon'ble Service Tribunal Khyber Pakhtunkhwa, Peshawar, Judgment dated 05.09.2023 Execution Petition No. 745/2023 in Service Appeal No. 517/2023, the Competent Authority (Chief Minister Khyber Pakhtunkhwa) is pleased to order the following postings / transfers with immediate effect, in the best public interest.

S#	Name	From	To
1.	Mr. Sheraz Ahmad (MC BS-19)	Awaiting posting	DEO (Male) Mohmand V.Sr.No.02
2.	Mr. Liaqat Ali (MC BS-18)	DEO (Male) Mohmand	DEO (Male) Dir Lower against the vacant post.

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA  
E&SE DEPARTMENT

**Endst: of even No.& date:**

Copy forwarded for information to the: -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
4. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
5. District Education Officers (Male) Mohmand/Dir Lower.
6. District Accounts Officer Mohmand/Dir Lower.
7. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
8. PA to Addition Secretary (Estab./General), E&SE Department.
9. Master File.

**ALLOTTED**  
*[Signature]*

*[Signature]*  
SECTION OFFICER (Management Cadre)

F

(17)  
Execution Petition No. 45/2023  
Saleem Khan vs Govt

19.04.2023 1. Learned counsel for the petitioner present. Mr. Muhammad Jan District Attorney alongwith Noor Badshah, ADEO for the respondents present.



2. Petitioner filed instant execution petition for implementation of order dated 18.10.2022 passed in service appeal No. 407/2017 which was in these terms "At the every outset, learned counsel for the appellant stated at the bar that the appellant would be satisfied if direction is issued to the respondents to consider him in accordance with relevant rules and law for promotion to the post of Junior Clerk in upcoming meeting of DPC. Respondents shall consider the appellant for promotion to the concerned post in the fourth coming of accordingly"

3. Perusal of appeal No. 407/2017 reveals that petitioner had prayed as follows;

*"On acceptance of this appeal, respondents may kindly be directed to promote the appellant from Lab Attendant to Junior Clerk"*

It is pertinent to mention here that respondent in their reply specifically mentioned that petitioner was not considered for promotion as he was not eligible being holder of 3<sup>rd</sup> Division in SSC because under the rules promulgated on 28<sup>th</sup> Jan, 2013 at serial No.9 post of Junior Clerk will have to be filled with a ratio of 33% by promotion on the basis of seniority-cum-fitness and 67% by initial recruitment. Only those class-iv will have to be promoted who had passed SSC examination with second division having at least two year service at their credit. It will not be out of place to mention here that

ATTESTED  
*[Signature]*  
District Attorney  
District of Faisalabad  
Punjab, Pakistan

*[Handwritten mark]*

ATTESTED  
*[Signature]*

ATTESTED  
*[Signature]*

(18)

during pendency of appeal vide notification dated 02.08.2017 Rules of 2013 were amended wherein 3<sup>rd</sup> division were made eligible for promotion to the post of Junior Clerk and petitioner requested this Tribunal for giving direction to respondents to consider him according to prevailing Service Rules which was accepted and this Tribunal had not passed any order on merit.

4. Respondent submitted implementation report in accordance with which petitioner was considered twice by the DPC in its meeting held on 16.11.2023 but he was found not eligible for promotion as he was low in the seniority position being at serial No. 148. So, order of this Tribunal to consider the petitioner was complied with. So far as contention of learned counsel for the petitioner that retrospective effect be given to amendments in the Service Rules notified on 02.08.2017 is concerned, in my humble view when it was not specifically mentioned in any law about the retrospectivity then retrospective effect could not be given to it.

5. It is also very astonishing that petitioner seek promotion on the basis of seniority list of Class-IV employees issued in the year 2012 in accordance with the amendment dated 02.08.2017, while as per seniority dated list of the year 2012 when this Tribunal directed the respondents to consider the petitioner for promotion in accordance with the relevant rules, he was at serial No. 11. Perusal of seniority list of 2012 reveals that same was not properly maintained as official appointed in 1986, 1989, 1995 and 1998 were shown junior to the petitioner at serial No.12, 13, 15 and 16 respectively. Now after

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J. S. JAIN  
JUDGE

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(19)

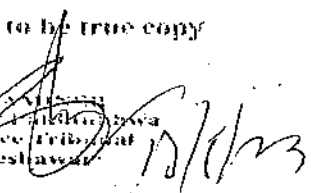
merger proper seniority list was issued in accordance with which petitioner was placed at serial No. 148 which is his due seniority position.

6. In view of above it is held that order of this Tribunal dated 18.10.2022 was complied with and this execution being fruitless be consigned to record room after completion and compilation. Consign.

7. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 19<sup>th</sup> day of April, 2024.

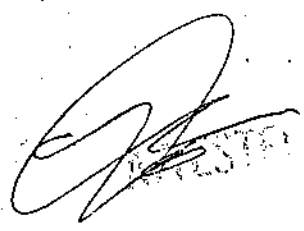
Certified to be true copy

EX-AMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



  
(RASHIDA BANO)  
Member (J)

Date of Presentation of Application 13-8-24  
Number of Waives 37  
Copying 10  
Urgent 10  
Total 20  
Name of Officer \_\_\_\_\_  
Date of Order 13-8-23  
Date of Delivery of copy 13-8-23



**ATTESTED**  
