

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

Appeal No. 1003/2024

Umar Farooq S/O Asif Farooq R/O Jahangiri Bhandra, Tehsil Takht e Nasarati, District Karak presently residing at Flat No.411, 4th Floor Block-A, Deans height Near Zarghoni Masjid, Phase-II, Hayatabad, Peshawar.

..... Appellant.

VERSUS

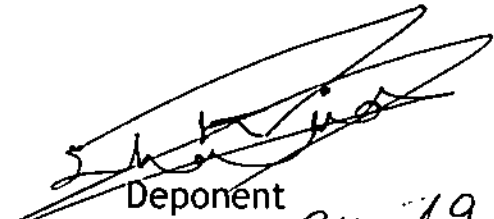
1. Government of Khyber Pakhtunkhwa through Chief Secretary.
2. Public Health Engineering Department, KPK, through its Secretary.
3. Chief Engineer (Center), Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.
4. Establishment and Administration Department, KPK, Peshawar through its Secretary.
5. Finance Department, KPK, Peshawar through its Secretary

..... Respondents

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Dated: 6.09.2024.


Deponent
0333-9111069.

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. 1003/2024

Umar Farooq S/O Asif Farooq R/O Jahangiri Bhandra, Tehsil takht e Nasarati, District Karak presently residing at Flat No.411, 4th Floor Block-A, Deans height Near Zarghoni Masjid, Phase-II, Hayatabad, Peshawar.

..... Appellant.

V E R S U S

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 16720

1. Government of Khyber Pakhtunkhwa through Chief Secretary.
2. Public Health Engineering Department, KPK, through its Secretary. Dated 15-10-24
3. Chief Engineer (Center), Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.
4. Establishment and Administration Department, KPK, Peshawar through its Secretary.
5. Finance Department, KPK, Peshawar through its Secretary

..... Respondents

JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDANTS NO. 1 to 5.

PRELIMINARY OBJECTIONS:

1. That the appellant has no cause of action / locus standi.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the present appeal in hand is not maintainable in its present form and also in the present circumstances of the issue.
4. That the present appeal is liable to be dismissed with cost for miss joinder / non joinder of necessary parties.
5. That the appellant has filed the instant appeal on malafide motives.
6. That the instant appeal is against the prevailing laws and rules.
7. That the appellant is estopped by his own conduct to file the present appeal.
8. That the present appeal is badly timely barred.
9. That the present appeal is not maintainable under Section-4 of Service Tribunal Act 1974 as no departmental appeal has been filed.

RESPECTFULLY SHEWETH,

1. Pertains to record. Hence no comment.
2. Incorrect and misconceived, it is clarified that different seniority lists of Sub Engineers (BPS-12)/(BPS-16) based on qualification in light of existing Service rules of Public Health Engineering Department framed and amended by Standing Service Rules Committee (SSRC) comprising of Establishment Department, Finance

Department and Public Health Engineering Department. Seniority list of Sub Engineers have been maintained by office of the Chief Engineer (Center) PHED for promotion to the post of SDO/AE (BPS-17) with the following breakup.

S.No	Qualification	Quota	Qualifying Length of Service
1.	Diploma of Associate Engineer(Civil/Electrical/Mechanical from a recognized Technical Board)	20%	10 years
2.	In-Service Graduate (B.Sc/B.E (Civil) Engineering From a recognized University)	2%	05 Years
3.	Direct Graduate (B.Sc/B.E (Civil) Engineering From a recognized University)	3%	05 Years
4.	B.Tech Degree	8%	05 Years
5.	Initial appointment (through KPPSC)	67%	-

The quota ibid noted against each discipline will be promoted from their respective seniority list of Sub Engineers to the post of SDO/AE/ATO (BPS-17) on seniority-cum-fitness basis.

It is also added that Public Health Engineering Department, in consultation with the Establishment Department and Finance Department, amended this Department Notification No.SO(Estt)/PHED/1-9/2010 dated 06.03.2010. Further amendments were made in Service Rules of PHE Department vide notification No.SO(Estt)/PHED/1-9/2020-21 dated 31.01.2022 (Copy of amended service rules is attached as Annexure-A).

Seniority of in-service graduate Sub-Engineers having B.Sc Civil Engineering degree/ B.Tech Degree will be reckoned from the date of acquiring degree.

3. Pertains to record. Hence no comment.
4. As discussed in para-2 of the above.
5. Pertains to record. Hence no comment.
6. Incorrect and misconceived. It is clarified that the respondent department follow rules and regulation in the discharge of official business and the appellant has been treated in light of existing service rules of PHE Department.

GROUND: -

- A. Incorrect and misconceived. It is clarified that the respondent department issued final seniority list of in-service graduate Sub Engineers, wherein, the appellant is reflected at serial No.3 (Copy of seniority list is attached as Annexure-B). Moreover, on 31.05.2024 vide notification No. SO(Estt)/PHED/4-53-B/2024/SDO Mr.Ijaz Ahmad in-service graduate was promoted to the post of Assistant Engineer/Assistant Design Engineer/Sub Divisional Officer/Assistant Technical Officer (BPS-17) on regular basis (Copy of Notification is attached as Annexure-C). Secretary Public Health Engineering department being the competent authority actualized promotion order of Mr. Ijaz Ahmad

vide Notification No. SO(Estt)/PHED/4-53-B/2024/SDO dated 28.08.2024 (Copy of Notification of actualization is attached as Annexure-D).

- B. Incorrect and misconceived. As discussed in the preceding paras.
- C. Incorrect and misconceived. It is also clarified that quota of in-service graduate Sub Engineer in other departments is not binding on the respondent department and the appellant has been treated in light of existing service rules of PHE Department framed by Standing Service Rules Committee (SSRC) being the competent forum comprising of PHE Department, Finance Department and Establishment Department.
- D. Incorrect and misconceived. It is clarified that after amendments in service rules of PHE Department, existing service rules will be followed in letter in spirit and all the employees of the respondent department will be treated in light of existing service rules accordingly.
- E. Incorrect and misconceived. As discussed in the preceding paras.
- F. Incorrect and misconceived. As discussed in the preceding paras.
- G. Incorrect and misconceived. Hence denied.
- H. Incorrect and misconceived. Hence denied.
- I. Incorrect and misconceived. As discussed in the preceding paras.
- J. Incorrect and misconceived. Hence denied.
- K. Incorrect and misconceived. Hence denied.
- L. The respondent department seeks permission from this honorable Tribunal to raise additional grounds at the time of arguments, please.

PRAYERS: -

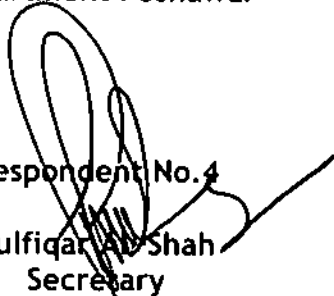
In view of the aforementioned facts, it is, therefore, most humbly prayed before this honorable Tribunal that the present appeal being vexatious and devoid of merit may please be dismissed with cost.



Respondent No.3

Muhammad Yousaf
Chief Engineer(Center)
Public Health Engineering
Department Peshawar


Respondent No.1&2

Khayyam Hassan Khan
Secretary
Public Health Engineering Department
Peshawar


Respondent No.4
Zulfiqar Ali Shah
Secretary
Establishment Department


Respondent No.5
Ikram Ullah Khan
Secretary
Finance Department



4

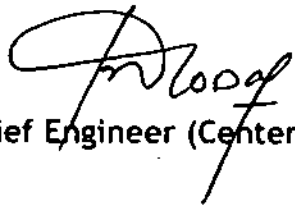
OFFICE OF THE CHIEF ENGINEER (CENTER)
PUBLIC HEALTH ENGG:DEPARTMENT KHYBER PAKHTUNKHWA PESHAWAR
Ph: 091-9217528 E-mail:centrephe@gmail.com, Plot No. 40, Sector B-II, Phase-V, Hayatabad, Peshawar

No. CG/71-02/PHE,

Dated Peshawar, The 06/09/2024.

AUTHORITY LETTER

It is certified that Mr. Kamran Shahid, Assistant Social Organizer of Public Health Engineering Division Peshawar is hereby authorized to attend the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No.1003/2024 titled "Umar Farooq VS Government of Khyber Pakhtunkhwa through Secretary PHED & (04) Others" on behalf of all the respondents of Public Health Engineering Department.


Chief Engineer (Center)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1003/2024

Umar Farooq S/O Asif Farooq R/O Jahangiri Bhandra, Tehsil takht e Nasarati, District Karak presently residing at Flat No.411, 4th Floor Block-A, Deans height Near Zarghoni Masjid, Phase-II, Hayatabad, Peshawar.

..... Appellant.

VERSUS

- 1. Government of Khyber Pakhtunkhwa through Chief Secretary.
- 2. Public Health Engineering Department, KPK, through its Secretary.
- 3. Chief Engineer (Center), Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.
- 4. Establishment and Administration Department, KPK, Peshawar through its Secretary.
- 5. Finance Department, KPK, Peshawar through its Secretary

.....Respondents

AFFIDAVIT

I, Muhammad Yousaf, Chief Engineer (Center) Public Health Engineering Department Peshawar being official respondent No.2 do hereby solemnly affirm and declare on oath that the contents of accompanying Joint Para wise comments on behalf of respondents No. 1&2 are true and correct to the best of my knowledge and belief and 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.



A circular stamp with the name 'Muhammad Yousaf Khan' around the perimeter. Inside the stamp, there is a handwritten signature and the date '15/10/24'. The stamp is partially obscured by a diagonal line.



A handwritten signature in cursive script, appearing to read 'Muhammad Yousaf'.

DEPONENT

CNIC #: 12101-0926179-3

Annexure- (A) (6)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PH/1
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 07th FEBRUARY, 2022

GOVERNMENT OF KHYBER PAKHTUNKHWA PUBLIC HEALTH ENGINEERING DEPARTMENT

NOTIFICATION

Dated Peshawar, the 31st January, 2022.

No.SO(Estt)/PHED/1-9/2020-21: 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 Public Health Engineering Department, in consultation with the Establishment Department and Finance Department, hereby directs that in this Department's Notification No.SO(Estt)/PHED/1-9/2010, dated 06-03-2010, the following further amendments shall be made, namely:

AMENDMENTS

In the APPENDIX:-

(1) Under the heading "Engineering Cadre":

(i) against Serial No.03, in Colum No.02, for the existing entry, the following shall be substituted, namely:

"Executive Engineer/Design Engineer/Deputy Director (Technical)/Deputy Director (Labs/Projects) (BPS-18)

(ii) after Serial No.03, the following new entries shall be inserted in the respective Columns, namely:

3-A Technical Officer/Deputy Director (M&F) (BPS-18)

"By promotion, on the basis of seniority-cum-fitness from amongst the holders of the posts of Assistant Engineers/Assistant Design Engineers/ Sub Divisional Officers/Assistant Director (Tech)/ Assistant Technical Officer/Assistant Director (M&E)/Assistant Director (Labs)/Assistant Director (Projects), who possesses Degree of B.Tech (Hons) or Diploma of Associate Engineering from a recognized University/ Board with five years' service as such."

Note: For the purpose of promotion, joint seniority of B.Tech (Hons) & Diploma holders shall be reckoned from the date of promotion to BPS-17.

1367

Attested
[Signature]
Administrative Officer,
OJO the Chief Engineer (Center)
Public Health Engineering Deptt.
Khyber Pakhtunkhwa, Peshawar

- (iii) against serial No.04, in column No.05,
 - (a) in clause (a), for the words "Five percent", the words "Two percent" shall be substituted;
 - (b) in clause (b), for the words "Five percent", the words "Three percent" shall be substituted;
 - (c) in clause (c), for the words "Three percent", the words "Eight percent" shall be substituted; and
 - (d) after clause (c), as so amended, the following Note shall be inserted: namely:

"Note: for the purpose of promotion, the seniority of B.Tech (Hons) Degree holders shall be reckoned from the date of appointment or acquiring the Degree, whichever is later; and

(2) Under the heading "Water Quality (WQ) Laboratory's Technical Staff":

- (i) against Serial No.26, in column No.05, for the existing entry, the following shall be substituted, namely:

"By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Research Officer (Water Quality) with five years service as such."

- (ii) against Serial No.28, in column No.05, for the existing entry, the following shall be substituted, namely:

- (a) Twenty-five percent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Laboratory Assistant who possess at least second class B.Sc Degree in Microbiology or Chemistry from a recognized University, with 5-years service as such; and
- (b) Seventy-five percent by initial recruitment.

- (iii) after Serial No.28, the following new entries shall be inserted, in the respective Columns, namely;

"28-A	Laboratory Assistant (BPS-08)	At least Second Division Secondary School Certificate or its equivalent qualification from a recognized Board with two years Diploma in Laboratory Technician from a recognized Medical Faculty.	18 to 30 years	<ul style="list-style-type: none"> (a) Twenty-five percent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Laboratory Technician with 5-years service as such. (b) Seventy-five percent by initial recruitment; and
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Attested
[Signature]
Administrative Officer,
O/O the Chief Engineer (Center)
Public Health Engineering Deptt.
Khyber Pakhtunkhwa, Peshawar

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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 07th FEBRUARY, 2022 1369

- (iv) Against Serial No.29, in Column No.05, for the existing entry, the following shall be substituted namely:
- (a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Laboratory Attendant who possess at least Second Division Secondary School Certificate or its equivalent qualification from a recognized Board and two years Diploma in Laboratory Technician from a recognized Medical Faculty, with 5-years service as such; and
- (b) Fifty percent by initial recruitment.

SECRETARY TO
GOVT: OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Attested
[Signature]
Administrative Officer
O/O the Chief Engineer (Center)
Public Health Engineering Deptt.
Khyber Pakhtunkhwa, Peshawar

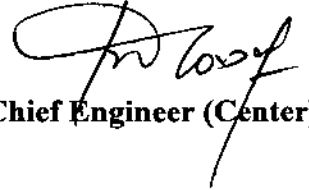
Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar

NOTIFICATION

**OFFICE OF CHIEF ENGINEER (CENTER)
PUBLIC HEALTH ENGINEERING DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR**

In pursuance of Section-8 (5) of the NWFP Civil Servants act 1973, the **Final** seniority list of **B.E/BS.c (Civil/Electronic) in Service Graduate Sub Engineers (BPS-16 & 12)** of Public Health Engg: Department Khyber Pakhtunkhwa, As it stood on **31.12.2023** is notified as detail below.

S.No	Name	Father Name	Home District	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Year of Acquiring Degree of BSc(Civil/Elect)	Remarks
1	Ijaz Ahmad	Sana Ullah	FR Bannu	05.03.1992	21.03.2017	09.03.2017	14.09.2021	Promoted a SDO
2	Muhammad Riaz	Taslim Khan	Khyber	04.09.1991	10.11.2015	29.10.2015	24.07.2023	
3	Umer Farooq	Asif Farooq	Karak	08.05.1991	02.03.2012	10.01.2018	10.11.2023	


Chief Engineer (Center)


Endstt: No. 06/CG-13 Dated Peshawar the

02/01/2024

Copy of the Seniority List is forwarded for information to the: -

- 1 - Chief Engineer (North/South/East) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar.
- 2 - All Superintending Engineers in Public Health Engg: Department Center/North/South/East Khyber Pakhtunkhwa.
- 3 - All Executive Engineers in Public Health Engg: Department Center/North/South/East Khyber Pakhtunkhwa.
- 4 - Section Officer (Estt) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar


Administrative Officer (Center)

Attested

Administrative Officer
O/O the Chief Engineer (Center)
Public Health Engineering Deptt:
Khyber Pakhtunkhwa, Peshawar

Annexure-c

10



**GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**

Dated Peshawar, the May 31, 2024

NOTIFICATION

No.SO(Estt)/PHED/4-53-B/2024/SDO: On the recommendations of Departmental Promotion Committee, the competent authority is pleased to promote Mr. Ijaz Ahmad, In-Service Graduate B.E/BSc (Civil) Sub Engineer (BPS-12) Public Health Enng: Division, Karak to the post of Assistant Engineer/Assistant Design Engineer/Sub Divisional Officer/Assistant Technical officer (BPS-17) on regular basis, with immediate effect.

2. The officer, on promotion, will remain on probation for a period of one year in terms of Rule-15 of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

3. The posting/transfer of the above-named officer will follow.

**SECRETARY
PHE DEPARTMENT**

Endst: No. & dated as above.

Copy forwarded for information and necessary action to the:

1. Accountant General Khyber Pakhtunkhwa.
2. All Chief Engineers PHE Department Peshawar.
3. All Superintending Engineers PHE Circls, PHE Department.
4. Executive Engineer PHE Division, Karak & Hangu.
5. District Accounts Officer, Karak & Hangu.
6. Assistant Director, I.T PHE Department.
7. PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
8. PS to Minister for PHE Khyber Pakhtunkhwa.
9. PS to Secretary PHE Department, Peshawar.
10. PA to Additional Secretary PHE Department, Peshawar.
11. PS to Deputy Secretary-I & II, PHE Department, Peshawar.
12. Officers/officials concerned.
13. Office Order / Personal Files.

Affested
[Signature]
Administrative Officer.
O/O the Chief Engineer (Center)
Public Health Engineering Deptt:
Khyber Pakhtunkhwa, Peshawar

[Signature]
31/05/24
(SHER AZAM KHAN)
SECTION OFFICER (ESTT)

ANNEXURE-D
11



GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the August 28, 2024

NOTIFICATION

No.SQ(Estt)/PHED/4-53-B/2024/SDO: Consequent upon the promotion of Mr. Ijaz Ahmad, Sub Engineer (BS-12) to the post of Assistant Engineer /Sub Divisional Officer (BS-17) on regular basis and in continuation of this department's notification of even No. dated 31.05.2024 and in order to actualize his promotion, the competent authority is pleased to order the following postings/transfers and adjustments of the officer/official of the Public Health Engg: Department, in the best interest of public service:

S#	Name	From	To
1.	Engr. Ijaz Ahmad (BS-17)	Sub Engineer PHE Division, Karak-I	SDO PHE Sub-Division, Karak-I.
2.	Mr. Umar Farooq (BS-12)	SDO (OPS) PHE Sub-Division, Karak-I.	Sub Engineer PHE Division, Karak-I.

SECRETARY to GOVT. of KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGINEERING DEPARTMENT

Endst: No. & dated as above.

Copy forwarded for information and necessary action to the:

1. Chief Engineers (South & Center) PHE Department Peshawar.
2. Superintending Engineer PHE Circle, Kohat.
3. Executive Engineer PHE Division, Karak & Hangu.
4. District Accounts Officer, Karak & Hangu.
5. Assistant Director, I.T PHE Department.
6. PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
7. PS to Minister for PHE Khyber Pakhtunkhwa.
8. PS to Secretary PHE Department, Peshawar.
9. PA to Additional Secretary PHE Department, Peshawar.
10. PS to Deputy Secretary-I & II, PHE Department, Peshawar.
11. Officer/official concerned.
12. Office Order / Personal Files.

Attested

Administrative Officer,
O/O the Chief Engineer (Center)
Public Health Engineering Deptt:
Khyber Pakhtunkhwa, Peshawar

(KIRAYAT ULLAH)
SECTION OFFICER (ESTT)