


in a certain cadre to which promotion is made from different lower posts, carrying the same pay scale. Although the appellant submitted a copy of tentative seniority list of Assistant District Population Welfare Officer/ Admin Officer/Superintendent/ Private Secretary/ Statistical Investigator and Monitoring Officer (BPS-17/16) but the same has not yet attained the status of finality. We, therefore, dispose of the instant service appeal and remit the case back to the respondent department with direction to examine the case of fixation of seniority of the appellant in (BPS-17) in accordance with the provision of Rule-17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. Costs shall follow the event. Consign.

5. *Pronounced in open Court at Peshawar and given under our hands and seal of the Tribunal on this 14th day of 2024.*


(AURANGZEB KHATTAK)
MEMBER (J)


(MUHAMMAD AKBAR KHAN)
MEMBER (E)

quota/category of Assistant to the post of Superintendent and accordingly the private respondent No. 5 Sarfaraz Khan was promoted as Superintendent (BPS-17) on regular basis vide Notification dated 03.11.2022. However, the category of the appellant was deferred for certain clarifications in the Service Rules. In the subsequent meeting of the Departmental Promotion Committee, the promotion case of the appellant to the post of ADPWO/Admin Officer on regular basis was again placed before the Departmental Promotion Committee on the basis of same Service Rules notified on 17.02.2017. The Departmental Promotion Committee considered and recommended the appellant for his promotion to the post of ADWPO/Admin Officer (BPS-17) on regular basis and accordingly promotion of the appellant to the post of ADWPO/Admin Officer (BPS-17) was notified on 19.04.2023.

3. The prayer sought for in the instant appeal consists of two parts; i) the appellant be placed in his due place of seniority in (BPS-17) alongwith private respondent No. 5 promoted in the earlier Departmental Promotion Committee meeting and notified vide order dated 13.09.2022; ii) the appellant may be promoted from the date when other colleague (private respondent No. 5) was promoted w.e.f 03.11.2022 with all consequential benefits. During the course of arguments the appellant and his learned counsel stated that they would not press for antedated promotion if the question of fixation of seniority of the appellant in BPS-17 is addressed.

4. We observe that comprehensive mechanism has been given in Rule-17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 regarding fixation of seniority of civil servants whose cases are deferred and inter-se-seniority of the civil servants

Service Appeal No. 2236/2023 titled "Dr. Haroon-Ur-Rashid Versus The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar & others"

ORDER

14.10.2024 **MUHAMMAD AKBAR KHAN, MEMBER (E)**:- Mr. Zartaj Anwar,

Advocate for the appellants present. Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents present. None present on behalf of private respondent No. 5 hence proceeded ex-parte.

2. Brief facts of the case are that the appellant while serving as Senior Scale Stenographer in the respondent department was appointed as Assistant Director (BPS-17) on acting charge basis on the recommendation of Departmental Selection Committee vide Notification dated 31.03.2021. The Service Rules notified by the respondent department vide Notification dated 17.02.2017 provide the following method of recruitment/quota reserved for different cadres in BPS-16 for promotion to BPS-17.

2.	3.	4.
Assistant District Population Welfare Officer/Admin Officer	At least Second Class Master Degree or equivalent qualification from a recognized University in Sociology/Social Work/Anthropology/Psychology/Business Administration(MBA)/Public Administration (MPA)/Economics/Statistics/Political Science/Population Studies	(i) Forty percent (40%) by promotion on the basis of seniority-cum-fitness, from amongst the Assistant with at least five years service as such; (ii) Twenty percent (20%) by promotion on the basis of seniority-cum-fitness, from amongst the Statistical Assistants with at least five years service as such; (iii) Twenty percent (20%) by promotion on the basis of seniority-cum-fitness, from amongst the Senior Scale Stenographer with at least five years service as such; and (iv) Twenty percent (20%) by promotion on the basis of seniority-cum-fitness, from amongst the Projectionists and Photographers with at least five years service as such

In the meeting of Department Promotion Committee held on 13.09.2022 working papers were placed before the Departmental Promotion Committee for promotion of Assistants and Senior Scale Stenographer for regular promotion to the post of Superintendent/ADWPO/Admin Officer (BPS-17). The DPC recommended the case of private respondent from the