

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

SERVICE APPEAL NO. 976/2024

Haider Ali.....Appellant

Versus

Government of Khyber Pakhtunkhwa & othersRespondents

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Deponent



**Director General Health Services
Khyber Pakhtunkhwa, Peshawar**

DR. MUHAMMAD SALEEM

①

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
SERVICE APPEAL NO. 976 OF 2024

Haider Ali..... Appellant
Versus
Govt. of Khyber Pakhtunkhwa and others..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.01 TO 02

Respectfully Sheweth:

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 16896
Date 17-10-24

Preliminary objections

1. That the appellant has got no cause of action or locus standi to file the instant appeal.
2. That the appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing Law and Rules.
4. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has not come to this Honorable Tribunal with clean hands.
7. That the instant appeal is bad for miss-joinder of unnecessary and non-joinder of necessary parties.
8. That there is no final order (Original or Appellate) in the instant service appeal therefore the service appeal is not maintainable U/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.
9. That through the instant appeal the appellant seeks directions of the Hon'ble Court of the Hon'ble Tribunal which is beyond the jurisdiction of the Hon'ble Tribunal as for issuing direction in form of writ of mandamus lies with the High Court under Art, 199 of the constitution of Islamic Republic of Pakistan, 1973. Reliance is placed on 2006 SCMR 1630.

ON FACTS:

1. Pertains to record.
2. Pertains to record, however, as per Khyber Pakhtunkhwa Civil Servant Act 1973, Section 8(3), seniority on initial appointment to a service (cadre) or post shall be determined as may be prescribed.

Furthermore, as per Appointment Promotion & Transfer (APT) Rules 1989, Rule, 17, Explanation-III (2) seniority in various cadre of Civil Servant appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the date of their regular appointment to a post in that cadre, provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment, **so in light of above rules the seniority of Workshop Technician is prepared and properly notified for any objection or omission to be rectified vide letter of respondent No.2 dated 29.02.2024 wherein the Petitioner may be seen at S. No. 7, (Annex-A).**

3. Correct to the extent that six senior most workshop Technicians including the appellant was upgraded from BS-11 to BS-14 with the condition that the said upgradation will be personal and the post shall be downgraded as and when vacated by the present incumbents vide order dated 11.09.2012. It is further to clarify that it was personnel upgradation and not promotion therefore such upgradation does not affect seniority.
4. Correct to the extent that the upgradation of Workshop Technicians from BS-11 to BS-14 was personal to the incumbents of the posts, therefore, their combined seniority list as Workshop Technicians was issued and maintained accordingly.
5. Incorrect, as per Para-i of order dated 01.08.2012 attached at **Annex-B**, six posts of Workshop Technicians were upgraded from BS-11 to BS-14 personal to the senior most incumbents as per seniority list. The said posts shall stand downgraded as and when vacated by the present incumbents, while as per Para-ii of the same order, six posts of Workshop Technicians were upgraded from BS-11 to BS-14 on permanent basis and re-designated as Electro Medical Supervisor to be filled through promotion.

In light of the above, the appellant including the others (1 to 5) was upgraded from BS-11 to BS-14 on personal basis and not promoted; therefore, their seniority was also maintained as Workshop Technicians. Furthermore, the post of Workshop Supervisor will be filled by promotion amongst the Workshop Technicians on seniority cum fitness basis, which will be fulfilled after issuance of final seniority list.

6. Pertains to record. However, the seniority list of Workshop Technician was revised under prevailing rules and circulated vide letter dated 29.02.2024 for rectification of any error or omission wherein the appellant may be seen at S. No. 7.
7. Pertains to record as explained in the preceding para.

8. Correct to the extent that the Govt. has notified the recruitment, qualification and other conditions to the post for the Electro Medical Equipments maintenance and repair workshop vide Notification dated 03.11.1999 which was further amended vide Notification dated 02.08.2018 wherein it is clearly mentioned that the Electro Medical Supervisor will be filled by promotion on the basis of seniority cum fitness from amongst Workshop Technicians with five year service, (Annex-C).
9. Pertains to record. However, it is stated that the provisional seniority list of Workshop Technicians has been issued for any objection, error and omission vide letter dated 29.02.2024, so as and when the response of this seniority list is received, final seniority list will be issued as per prevailing rules. Furthermore no service appeal lies against a tentative/provisional seniority list u/s 4 of the service Tribunal Act, 1974 as there is no final order (original or appellate) hence the instant appeal is not maintainable.
10. As per para 9 above.
11. Incorrect, as in Para No. 9.
12. Incorrect, as in above statement, the appellant is not an aggrieved person and has no right to file the instant appeal.

GROUND

- A. Incorrect, the provisional seniority list of Workshop Technicians has been issued for any objection, error and omission vide letter dated 29.02.2024, so as and when the response of this seniority list is received, final seniority list will be issued as per prevailing rules. Hence the act of the respondents is not against the law & rules. Detailed reply has been given in Para-9 above.
- B. Incorrect, as explained in the preceding para.
- C. Incorrect. Already replied in the preceding paras.
- D. Incorrect, as explained in the above, the appellant has been treated in accordance with prevailing law and rules.
- E. Incorrect, as explained in Para-A above.
- F. Incorrect, as explained in Para-A above.
- G. No comments being matter of law.
- H. Incorrect, the provisional seniority list has been issued for any object vide letter dated 29.02.2024 according to rule. As and when the response of this seniority list is received, final seniority list will be issued.
- I. Incorrect, as explained in the above paras.
- J. Incorrect, the act of the respondents is according to prevailing rules.

K. Incorrect as explained in the above paras.

L. Incorrect. The appellant has been treated in accordance with prevailing law and rules.

M. The answering respondents also seek prior permission of this Honorable Tribunal to adduce additional grounds at the time of arguments.

PRAY

Keeping in view the above, the case being devoid of merits and having no legal footings, may kindly be dismissed with costs. Furthermore, the appellant has also filed Writ Petition No. 1823-P/2024 for the same purpose (Annex-D).



Director General Health Services,
Khyber Pakhtunkhwa Peshawar
Respondent No. 2

DR. MUHAMMAD SALEEM



Secretary Health
Govt. of Khyber Pakhtunkhwa Peshawar.
Respondent No. 1

MR. ADEEL SHAH

DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR
Communications should be addressed to the
Health Services Peshawar
by name.

(5)



DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA, PESHAWAR

2024
(5)

A

E-Mail Address: nr/dgshs@yahoo.com office Ph# 091-9210269, 9210196 Fax # 091-9210230

No. 1623-28 / Ministerial Promotion Cell Dated Peshawar the 29/02/2024

To


1. The XEN, Central Workshop, Phase-V, Hayatabad, Peshawar.
2. The Regional Engineer M&R Sub-Workshop, DHQ Hospital, Abbottabad.
3. The Regional Engineer M&R Sub-Workshop, DHQ Hospital, Batkhela.
4. The Regional Engineer M&R Sub-Workshop, DHQ Hospital, Bannu.

SUBJECT: PROVISIONAL SENIORITY LIST OF WORKSHOP TECHNICIANS (BPS-12) OF HEALTH DEPARTMENT STOOD ON JANUARY 2024.

Memo:

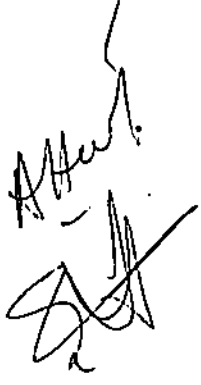
Enclosed please find herewith Provisional Seniority List of Workshop Technicians (BPS-12) for information to all concerned with the request that the same may be circulated amongst all the incumbents for their perusal with the request to go through the lists and submit their inputs within 30 days in case of any error, omission and objection (if any), so as to finalize the seniority list of Workshop Technicians (BPS-12) and to initiate the process of promotion.

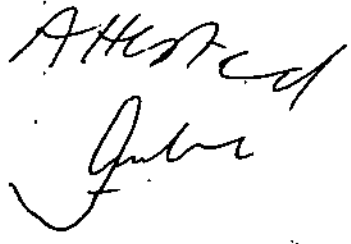
The list can also be viewed on website www.healthkp.gov.pk.


DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR
28/2/24

Cc.

1. The Director DHIS, DGHS Office, Khyber Pakhtunkhwa, for information with the request to upload the attached seniority list of Workshop Technicians (BS-12) Health Services Khyber Pakhtunkhwa on the website mentioned above
2. PA to DGHS Khyber Pakhtunkhwa Peshawar.





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DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA

Notification No. SOH(E-I) E&AD/6-25/2021 in pursuance of section-8(1) of Khyber Pakhtunkhwa Civil Servant Act 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servant (Appointment; Promotion & Transfer) Rules, 1989.

**PROVISIONAL SENIORITY LIST OF WORKSHOP TECHNICIAN (BS-12) SERVING IN HEALTH DEPARTMENT
KHYBER PAKHTUNKHWA (STOOD ON JANUARY 2024)**

S. No.	Name/ Father Name	Date of apptt:/ Promotion as Workshop Technician.	Place of posting	Date of Birth /Domicile	Date of Retirement	Remarks
1.	Muhammad Ikram Mohsin S/O Ghulam Mohsin	16.02.1993	Central Workshop Peshawar	16.03.1969/ Hangu	15.03.2029	upgraded to BPS 14
2.	Tahir Hameed S/O Abdul Hameed	17.02.1993	Central Workshop Peshawar	04.05.1970/ Peshawar	03.05.2030	upgraded to BPS
3.	Syed Wajid Ali Shah S/O Syed Munanim Shah	22.03.1993	Central Workshop Peshawar	05.04.1969/ Charsadda	04.04.2029	upgraded to BPS
4.	Misbahud Din S/O Muhammad Nawaz	05.09.1994	Sub Workshop, Bannu.	03.05.1965/ Karak	02.05.2025	
5.	Kamil Hussain S/O Tajir Hussain	05.09.1994	Sub Workshop, Bannu.	05.01.1967/ Kurram Agency	03.01.2027	
6.	Amanat Ali Shah S/O Syed Arif Hussain Shah	05.09.1994	Sub Workshop, Abbottabad.	04.03.1969/ Haripur	03.03.2029	
7.	Haider Ali S/O Muhammad Ali	05.09.1994	Central Workshop Peshawar	16.03.1971/ Bannu	15.03.2031	upgraded to BPS
8.	Ikram Bahadur S/O Shamsul Qamar	05.09.1994	Sub Workshop, Batkhela.	01.04.1973/ Malakand Agency.	31.03.2033	upgraded to BPS
9.	Safi Ullah S/O Mohibullah	20.02.1995	Sub Workshop, Batkhela.	04.01.1973/ Dir	03.01.2033	
10.	Abu Turab S/O Ghulam Nabi	21.05.1995	Sub Workshop, Abbottabad.	09.10.1972/ Haripur	08.10.2032	
11.	Qazi Saifullah S/O Qazi Mula	02.04.1998	Central Workshop Peshawar	22.05.1977/ Peshawar.	21.05.2037	
12.	Syed Jaffar Hussain Shah S/O Syed Sajad Hussain	a.08.12.1994 b. 16.04.2012	Sub Workshop, Bannu.	12.04.1971/ Hangu	01.04.2031	
13.	Zulfiqar Ali S/O Maqbool Ali	a.10.06.1995 b.16.04.2012	Sub Workshop, Batkhela	02.03.1968/ Malakand Agency	01.03.2028	
14.	Muhammad Zahir Khan S/O Mir Alam Khan	a.02.04.1998 b. 04.07.2012	Sub Workshop, Batkhela	20.04.1975/ Charsadda	19.04.2035	
15.	Wahid Ali Shah S/O Syed Ali Shah	a.31.03.1998 b.13.04.2015	Sub Workshop Abbottabad	06.04.1964 Haripur	05.04.2024	

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B...

**GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated the Peshawar 01 August, 2012

ORDER

No. SOH-III/10-4/2012.

On the recommendation made by the up-gradation committee the competent authority, has been pleased to approve the recommendations of the upgradation committee contained in para-5 of the minutes of the meeting which are re-produced as under.

- i) Six posts of Workshop Technician may be upgraded from ~~BS-13~~ to ~~BS-14~~ (personal) to the senior most incumbents as per seniority list. The posts shall stand downgraded as and when vacated by the present incumbents.
- ii) Six posts of Workshop Technician may be upgraded from BS-11 to BS-14 on permanent basis and (re-designated) as Electro Medical Supervisor to be filled through (promotion)
- iii) Six posts of Workshop mechanic may also be upgraded from BS-05 to BS-07 permanently with enhancement of their qualification from Matriculation to FSc alongwith the required diploma in the relevant field for new entrants.
- iv) The Administrative Department will amend the service rules accordingly, through SSRC.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

FINANCE DEPARTMENT

Endst: No. SO (FR) FD/7-3/(B)/2002

Dated: 01-08-2012

Copy forwarded to Account General, Khyber Pakhtunkhwa Peshawar for information.

(F) *[Signature]*
Section Officer (FR),
Finance Department

Dated: 01-08-2012

Endst: No. SOH-III/10-4/2012

Copy forwarded to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
2. Director General Health Services, Khyber Pakhtunkhwa, Peshawar. He is requested to submit amendments in the existing rules for SSRC.
3. Executive Engineer, Central Workshop M&R Hayatabad Peshawar.
4. PS to Secretary Health, Khyber Pakhtunkhwa.

W.D.

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PROVIDORATE GENERAL HEALTH SERVICES
PESHAWAR

J. C.

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P.III
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 24th APRIL, 2018.

GOVERNMENT OF NWFP HEALTH DEPARTMENT

NOTIFICATION

Dated Peshawar, the 03rd November, 1999.

NO:- SOH-III/7-411/98 --- In the pursuance of the provisions contained in sub-rule (2) of rule (3) the North West Frontier Province Government Servants (appointment, promotion, and transfer) rules, 1989, the health department, in consultation with the services and general administration department and the finance department here by lays down the method of recruitment, qualification and other conditions specified in the column 3/4 and 5 of the appendix to this notification respectively which shall be applicable to the post for the electro medical equipments maintenance and repair workshop, specified in column 2 of the said appendix.

SECRETARY TO THE GOVT OF NWFP
HEALTH DEPARTMENT

Attested

1545

Attested
[Signature]

REQUIREMENTS FOR THE POSTS OF ELECTRIC, MECHANICAL AND MAINTENANCE WORKSHOPS

ADMINISTRATIVE OF THE POST
 APPOINTMENT BY INITIAL RECRUITMENT
 APPOINTMENT BY TRANSFER
 INITIAL RECRUITMENT

S. NO.	POST	REQUIREMENTS	RECRUITMENT
1.	Executive Engineer	a) Master Degree in Electrical/Electrical or Mechanical Engineering from recognized University with two years experience in Electric/Mechanical equipment, or b) Sc in Electrical/Electrical or Mechanical from a recognized university with 5 years experience in Electric/Mechanical Equipment.	By promotion from Workshop Engineers on the basis of seniority and fitness with 7 years service as such
2.	Workshop Engineer	B.Sc Engineering in Electrical/Electrical or Mechanical Engineering from recognized University.	By promotion on the basis of seniority and fitness from amongst Workshop Technicians with 10 years service, possessing at least a diploma in Engineering in the relevant field
3.	Workshop Technicians	Two years Diploma in Electrical/Electrical or Mechanical Engineering from recognized Govt. Poly-technic Institute.	By promotion on the basis of seniority and fitness from amongst Workshop Technicians with 2 years service as such
4.	Workshop Mechanics	Secondary School Certificate from a recognized Board with grade III Mechanical from a recognized Institute.	By initial recruitment or by promotion
5.	Cleaner	Preferably literate.	By initial recruitment

Note: If no suitable candidate is available for promotion then the post will be filled in by the initial recruitment.

ii) 10% by promotion on the basis of seniority and fitness from amongst Workshop Technicians with 10 years service, possessing at least a diploma in Engineering in the relevant field

iii) 50% by promotion on the basis of seniority and fitness from amongst Workshop Technicians with 2 years service as such

iv) 50% by initial recruitment


[Handwritten signatures and initials]

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SERVICE RULES FOR THE POST OF ELECTRO MEDICAL EQUIPMENT AND MAINTENANCE WORKSHOP

S.No	Nomenclature of the post	Minimum qualification and experience for appointment for initial recruitment, promotion or transfer	Age limit for appointment by initial recruitment	Method of recruitment
1	2	3	4	5
1	Executive Engineer	a) Master degree in electro medical or mechanical engineering from recognized university with two years in electro medical equipment or b) B.Sc in Electro Medical or Mechanical from a recognized university with five years experience electro medical equipment	25-40 years	By promotion from Workshop Engineer on the basis of seniority cum fitness with 7 year service as such Note: if no suitable candidate is available for promotion then the post will be filled in by initial recruitment
2	Workshop Engineer	B.Sc Engineering in Electro Medical or Mechanical Engineering from recognized university	21-30 years	30% by promotion on the basis of seniority cum fitness from amongst the workshop engineer with 10 years service, possessing at least a diploma in engineering in the relevant field. 70% by initial recruitment
3	Workshop Technician	Three years diploma in Electronics/Electrical or Mechanical Engineering from recognized Govt.Poly Technical Institute	18-25 years	50% by promotion on the basis of seniority cum fitness from amongst the workshop mechanics with 2 years service as such 50% by initial recruitment
4	Workshop Mechanic	Secondary school certificate from a recognized board with grade III Mechanic certificate from a recognized institute	18-25 years	By initial recruitment or by promotion
5	Cleaner	Preferably literate	18-25 years	By initial recruitment

Attested


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

SERVICE APPEAL NO. 976/2024

Haider Ali.....Appellant

Versus

Government of Khyber Pakhtunkhwa & othersRespondents

Affidavit

I, Dr. Muhammad Saleem, Director General Health Services, Khyber Pakhtunkhwa, Peshawar, under the directions of the Competent Authority, do hereby solemnly affirm that the contents of the parawise Comments on behalf of Respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court. 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 / costs.

Deponent



**Director General Health Services
Khyber Pakhtunkhwa, Peshawar
DR. MUHAMMAD SALEEM**



**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

*All communications should be addressed to the Director General Health Services
Peshawar and not to any official by name
Office # 091-9210269 Fax # 091-9210230*

AUTHORITY LETTER

Muhammad Yousaf Jamal Focal Person Litigation Section Directorate General Health Services Khyber Pakhtunkhwa is hereby authorized to attend/defend the court cases and file Parawise Comments / Reply on behalf of the undersigned before the Honorable Khyber Pakhtunkhwa Service Tribunal and its Camp Courts.

**Director General Health Services
Khyber Pakhtunkhwa, Peshawar**

DR. MUHAMMAD SALEEM