

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

SERVICE APPEAL No. 312/2024

Syed Wajid Ali Shah, Senior Scale Stenographer BPS-16, Budget & Accounts Cell, Climate Change, Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa

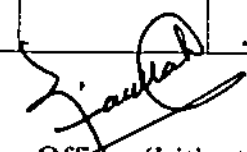
..... Appellant

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar & others..... Respondents.

INDEX

S#	Name of particulars	Annexures	Pages
1.	Parawise comments	--	1-2
	Appointment order dated June, 1987	Annex-A	3
2.	Absorption Order of the Petitioner in B&A Cell of Forestry, Fisheries and Wildlife Department dated 08.09.1999.	Annex-B	4
3.	Notification 24 th November, 2001 regarding granting of Selection Grade to the Petitioner alongwith petitioner promotion order dated 29.01.2008.	Annex-C	5-6
4.	Office Memorandum dated 5 th November, 2012 of Finance Division, Islamabad a/w Better copy.	Annex-D	7-9
5.	Finance Department, Khyber Pakhtunkhwa Letter dated 21 st February, 2014 regarding grant of Premature Increment on Promotion within the same scale.	Annex-E	10
6.	Forest Department letter dated 13.04.2021 a/w petitioner application forwarded to Finance Department for advise.	Annex-F	11-12
7.	Advise of Finance Department vide letter Dated 23.04.2021.	Annex-G	13
8.	Vetted copy of parawise comments.	--	14-15
9.	Affidavit	--	16
10.	Authority letter.	--	17


Section Officer (Litigation)
Climate Change, Forestry, Environment
& Wildlife Department,
Khyber Pakhtunkhwa.

07-11-24
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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL**

SERVICE APPEAL No. 312/2024

SYED WAJID ALI SHAH, SENIOR SCALE STENOGRAPHER BPS-16, BUDGET &
ACCOUNTS CELL, CLIMATE CHANGE, FORESTRY, ENVIORNMENT & WILDLIFE
DEPARMTENT, KHYBER PAKHTUNKHWA

..... **APPELLANT**

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 2 & 3

Respectfully Sheweth

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 17133

Dated 24-10-24

Preliminary objections

1. That the appellant has no locus standi to file the instant Appeal.
2. That the appeal is not maintainable in its present form.
3. That the appellant is not an aggrieved person to file the instant appeal.
4. The instant appeal is barred by law and time.

FACTS


1. Incorrect, initially the appellant was appointed as Stenographer BS-12 in the Forest Department, Khyber Pakhtunkhwa in **1987 (Flag-A)**, which is an attached formation of Climate Change, Forestry, Environment & Wildlife Department and later, absorbed in the Budget & Accounts Cell of Climate Change, Forestry, Environment & Wildlife Department on **8th September, 1999 (Flag-B)**. On the recommendations of DPC, the appellant was granted selection grade in BPS-15 w.e.f 9th September, 1999 vide order dated 24th November, 2001 at **Flag-C**.
2. Pertains to the record, hence no comments.
3. Correct to the extent of Federal Government decision and that too was after his promotion. Moreover, decision made by the Government of Pakistan Finance Division as outlined in their memorandum dated 5th November, 2012 (**Flag-D**) **was adopted by the Provincial Government of Khyber Pakhtunkhwa on 21st February, 2014 (Flag-E)** thereby allowed one premature increment in the pay scales of the higher post in fixation of pay on promotion within the same pay scale in all cases of promotion to higher posts carrying the same basic pay scales, **with immediate effect rather than being applied retrospectively.**
4. As explained and elaborated in paragraph 3 above.

- 2
34
5. Incorrect and misleading, hence denied. The appellant was granted Selection Grade BS-15 w.e.f 9th September, 2009 and later, promoted within the same scale from Junior Scale Stenographer / Selection Grade BS-15 to Senior Scale Stenographer BS-15, on 29th January, 2008. Upon Promotion, he received one advance increment as next stage in accordance with the rules. However, when the appellant submitted application on 11th March, 2021 for premature increment w.e.f 21st February, 2014 based on his 2008 promotion within the same scale, the Respondent No. 02 department "Forestry, Environment & Wildlife Department" consulted the Finance Department (**Flag-F**), which advised that premature increment was not admissible since his promotion occurred prior to the issuance / effectiveness of Finance Department's policy letter dated 21st February, 2014 (**Flag-G**). Hence his departmental appeal was rightly rejected being not covered under the policy *ibid*.
 6. Incorrect as elaborated in paragraphs 3 & 5 above, hence the appellant has no cause of action to file the instant appeal.
 7. As explained in paragraph 6 above.


GROUNDS

- A. Incorrect and misleading, hence denied. The appellant's case for premature increment w.e.f 21st February, 2014 based on his 2008 promotion within the same scale, being not covered under the Finance Department, Khyber Pakhtunkhwa policy dated 21st February, 2014 was rejected as already explained in detail in Para 5 of the facts above.
- B. Incorrect. The appellant was treated strictly in accordance with the rules as evident from Para 5 of the facts above.
- C. Incorrect. His case was dealt in accordance with the rules / policy without any discrimination.
- D. Incorrect. The factual / legal position has been explained in Paras 3 & 5 of the facts above.
- E. Incorrect as explained Paras 3 & 5 of the facts above.
- F. Incorrect. The appellant was treated fairly and his case was decided as per the rules, without any bias as explained in Paras 3 & 5 of the facts above.
- G. Incorrect. As elaborated and explained in Paras 3 & 5 of the facts above.
- H. Any additional ground by the appellant will be responded accordingly.

In view of the above, it is humbly prayed that the instant service appeal being devoid of merit may kindly be dismissed, please.


Secretary to Govt: of Khyber Pakhtunkhwa
Climate Change, Forestry, Environment &
Wildlife Department
Respondent No. 2

(Shahid Zaman)


(Muhammad Hayat) Addl. Secy:
Secretary to Govt: of Khyber Pakhtunkhwa (Regulation)
Finance Department
on behalf of Respondent No. 3

OFFICE ORDER NO. 232 DATED PESHAWAR THE 23RD JUNE, 1987 BY
SYED MUHAMMAD KAUNAIN, DIVISIONAL FOREST OFFICER, DIRECTION FOREST DIVISION
PESHAWAR.

On the recommendation of Departmental Selection Committee Mr. Waqid Ali Shah S/O Mujahid Shah, Mohallah Torkhal, Village and Post of Ziarat Kaka Sahib, Tehsil Nowshera District Peshawar is hereby appointed as Stenotypist in BPS-12 i.e Rs. 750-60-1550 with equal allowances as admissible under the rules on purely temporary basis with effect from the date, the candidate reports himself for duty. in the Office of Chief Conservator of Forests, NWFP, Peshawar after production of medical fitness certificate from the Medical Superintendent Peshawar.

This appointment order is subject to instantaneous termination for the reasons of the accommodation of the seniors, the abolition of the post, or for the in-efficiency, mis-conduct or other irregularity attributable and adjudged by the authority competent to order appointment in his sole discretion as sufficient ground for the discharge of the delinquent.

The appointment in the department is purely temporary and services of ex takti the Stenotypist will be liable to termination on 14-days notice without assigning any reason being assigned at any time irrespective of the fact that he is holding a post other than one to which he was originally recruited or on the payment of 14 days salary in lieu of the notice.

He will have to join duty on his own expenses.

In case he wishes to resign at any time, one month notice will be necessary or in lieu thereof one month's pay shall be forfeited.

The appointment is subject to the production of the character and fitness certificate from the District Magistrate and Civil Surgeon.

This offer will hold good upto 30.6.1987. The offer in case of candidate who fails to report for duty after completion of pre-requisites by 1.7.1987 will be held as not availed off and will be treated as withdrawn at the discretion of the competent authority.

Sd/-
(Syed Muhammad Kaunain)
Divisional Forest Officer
Direction Forest Division
Peshawar.

Attested
S.T.C
Sd/- (U-1)
Peshawar
Dep. Dir.

No. 11877-80/E.,
P. file

Copy forwarded for information and necessary action to the:-

1. Regional Accountant, Head Office, Peshawar.
2. Disburser, Head Office, Peshawar.
3. Mr. Waqid Ali Shah S/O Mujahid Shah, Mohallah Torkhal, Village and Post office Ziarat Kaka Sahib, Tehsil Nowshera, District Peshawar.
4. Personal file of the concerned.

Divisional Forest Officer
Direction Forest Division
Peshawar.

Dated: Peshawar the 08/09/1999

ORDER

NO.SO (FT-II)/AD/I-150/99: The Competent Authority is pleased to order the transfer of Mr. Wajid Ali Shah, Stenographer-II, Territorial / Conservation Region, of Forest Department, presently working in the office of Secretary Forestry, Fisheries and Wildlife Department, NWFP and absorb him against the existing vacancy in the B&A Cell of Forestry, Fisheries and Wildlife Department with immediate effect in the public interest.

Since the official is a permanent employee of the NWFP Forest Department, therefore his lien and other service matters will be governed by the rules in vogue.

Secretary to Govt: of NWFP,
Forestry, Fisheries & W/Life Department

Endst; No.SO(FT-II)/AD/I-150/99/

Dated Pesh: the 08/09/1999

Copy forwarded to:

1. The Chief Conservator of Forests, S/F, NWFP, Peshawar. He is requested to kindly transfer/send his ACRs to this department, at an early date.
2. The Chief Conservator of Forests, T/C, NWFP, Peshawar.
3. Director B&A, Forest Department.
4. The PD/CF, Forest Management Centre, Peshawar. He is requested to kindly transfer/send his Service Book/LPC to this department for record.
5. The PS to Secretary to Govt: of NWFP FFWD.
6. The Officials concerned.
7. Mr. Wajid Ali Shah, Stenographer-II.
8. Office Order File.

Section Officer (Ft-II)

Attested
S/O
50 (10+)
3

137 (5) (C)

GOVERNMENT OF NWFP
FORESTRY, FISHERIES & W/LIFE
DEPARTMENT.

Dated Peshawar the November 24, 2001.

ORDER.

NO.SO(G/A)FFWD/I-499/2001. The competent authority, on the recommendations of the Departmental Promotion Committee is pleased to allow grant of Selection Grade in BPS 15 to Mr. S.Wajid Ali Shah, Stenographer, (BPS-12), Budget and Accounts Cell, FFW Department with effect from 09-09-1999.

SECRETARY TO GOVT OF NWFP
FORESTRY, FISHERIES AND W/LIFE
DEPARTMENT.


Endost: NO.SO(G/A)FFWD/I-499/2001

6/49-53
Dated 24th Nov 2001.

Copy forwarded to:-

1. The Director, Budget and Accounts, FFW Department, NWFP.
2. The Budget and Account Officer, FFW Department, NWFP.
3. The P.S. to Secretary to Govt of NWFP, FFW Department.
4. The official concerned.
5. Officer order file.

Attended
C.T.C
Sof (if)


(MASOOD AHMAD)
SECTION OFFICER (G/A)

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

GOVERNMENT OF NWFP
ENVIRONMENT DEPARTMENT

Dated Pesh: 29.01.2008.

ORDER

NO.SO(Estt)/Envt/1-3/2K5: On the recommendation of Departmental Promotion Committee, the Competent Authority is pleased to promote Syed Wajid Ali Shah, Junior Scale Stenographer (BPS-12) of Directorate of Budget & Accounts, Environment Department to the rank of Senior Scale Stenographer (BPS-15) on regular basis with immediate effect.

SECRETARY TO GOVT. OF NWFP
ENVIRONMENT DEPARTMENT.

Endst. NO.SO(Estt)/Envt/1-3/2K5:

Dated 29.01.2008.

Copy is forwarded to:-

1. The Director Budget & Accounts, Environment Department.
2. PS to Secretary Environment Department, NWFP.
3. PA to Deputy Secretary-I, Environment Department.
4. The official concerned.
5. Master file.
6. Office Order file.

Afzal Shah
(SYED AFZAL SHAH)
SECTION OFFICER (ESTT)

Attached
C.T.C
So (Lit)

112/08

Islamabad, 5/11 November, 2012.

A. 1130/11-2/2010 - 1/8

OFFICE MEMORANDUM

Subject: GRANT OF PREMATURE INCREMENT ON PROMOTION WITHIN THE SAME SCALE.

The undersigned is directed to say that vide Finance Division's O.M. No. F-2(8)R-1(1)/80 dated 17-11-1991, it was inter alia decided to allow next stage equal to one increment on fixation of pay in the cases where a Government Servant already drawing pay in a pay scale by virtue of selection grade or, otherwise holding a lower post in the pay scale is promoted to a higher post falling in the same scale.

The pay fixation procedure contained in paras (iii) and (vii) of the Annexure to the Auditor General of Pakistan (Regulations) Islamabad O.G. No. AT 50/93/Reg.1/14/C/37-KW dated 25-05-1993 provides as under:-

(ii) "The National pay scales however, provide a uniform and simple formula for fixation of pay on promotion from a lower post to a higher post, where the fixation under normal rules gives an increase of pay equal to or less than one full increment of pay scale of the higher post, pay will be fixed by allowing the benefits of one premature increment in the pay scale of the higher post."

X	X	X	X	X	X	X	X	X	X	X
X	X	X	X	X	X	X	X	X	X	X

(vii) "As such, in the situations under discussion for the purpose of fixation of pay, the civil servants concerned would be treated as having been promoted to the post carrying the same pay scale and their pay fixed according to the formula discussed in (ii) above."

3. The above said benefit of premature increment within the same scale was withdrawn ~~ab initio~~ vide Auditor General of Pakistan letter No. 164/R-1/14C/87KW/267 dated 26-08-1996, which was challenged by the affecteds in the Court of Law. The Supreme Court of Pakistan Islamabad passed judgment dated 22-01-2001 in Civil appeals No. 1371 to 1392 of 1997 filed by Mr. Saeed Ahmad & others against a common judgment dated 15-05-1997 passed by the PSF Lahore in Appeals No. 25(L) 19(L) of 1997, as under:-

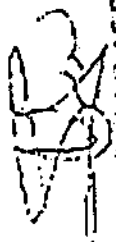
"We allow the appeals by setting aside the impugned judgment dated 15-05-1997 holding that the case of the appellants is not affected by circular dated 26-08-1996."

Att-Adel
C.T.-C
S/CIT.

4. The above orders of the honorable Supreme Court of Pakistan have already been implemented to the extent of the appellants.

5. In pursuance of the judgment of the Supreme Court of Pakistan in Md. Hameed Akbar Shah's case (1996 SCMR 1185), it has been decided that the benefit of judgment of the Supreme Court of Pakistan mentioned above may be extended in all other similar cases to the non-litigating employees. Accordingly, impartial modification of Finance Division's O.M. referred to para-1 above, it has been decided to allow one premature increment in the pay scale of the higher post in fixation of person promotion within the same scales.

All Ministries/Division/Departments.


(INSHAD AHMED)
Section Officer (N-2)

Attached
C.T.C.
50/11/2005

9

Better Copy

Government of Pakistan
Finance Division
(Regulation Wing)

No. F 11(30)R-2/2010-1150

Islamabad 5th November, 2012

OFFICE MEMORANDUM

Subject. GRANT OF PREMATURE INCREMENT ON PROMOTION WITHIN THE SAME SCALE.

The undersigned is directed to say that vide Finance Division's O.M No. F.2(8){1(1)}/80 dated 17.11.1991, it was inter-alia, decided to allow next stage equal to one increment on fixation of pay all the cases where a Government Servant already drawing pay in a pay scale by the virtue of selection grade or otherwise holding a lower post in the pay scale is promoted to a higher post falling in the same scale.

The pay fixation procedure contained in paras (iii) and (vii) of the Annexure to the Auditor General of Pakistan (Regulation), Islamabad U.O NO. A750/93/Reg.1/14/C/87-KW dated 25.05.1998 provides as under:

iii) "The Natural pay scales however, provide a uniform and simple formula for fixation of pay i.e. on promotion from a lower post to a higher post, where the fixation under formal rules goes on increase of pay equal to or less than one full increment of pay scale of the higher post, pay will be fixed by allowing the benefits of one premature increment in the pay scale of the higher post.

x	x	x	x	x	x	x	x	x	x
x	x	x	x	x	x	x	x	x	x

vii) "As such, in the situations under discussion for the purpose of fixation of pay, the civil servants concerned would be treated as having been promoted to the post carrying the same pay scale and their pay fixed according to the formula discussed in (iii) above."

3. The above said benefits of premature increment within the same scale was withdrawn vide Auditor General of Pakistan letter No. 164/R-I/10C/87XW/267 dated 26.08.1996, which was challenged by the affectees in the court of law. The Supreme Court of Pakistan Islamabad passed Judgment dated 22.01.2001 on Civil Appeal No. 1371 to 1392 of 1997 filled by Mr. Saeed Ahmad and others against a common judgment dated 15.05.1997 passed by the FST Lahore in Appeals No. 28(l) A9(c) of 1997, as under;-

"we allow the appeals by setting aside the impugned judgment dated 15.05.1997 holding it the case of the appellants is not affected by circular dated 26.08.1997."

4. The above orders of the honorable Supreme Court of Pakistan have already been implemented to the extent of the appellants.

5. In pursuance of the judgment of the Supreme Court of Pakistan in Mr. Hameed Akhtar Niazi case (1996 SCMR 1185), it has been decided that the benefits of judgment of the Supreme Court of Pakistan mentioned above may be extended in all other similar cases to the non-litigating employees. Accordingly, in partial modification of Finance Division's O.M. referred to at para-1 above, it has been decided to allow one premature increment in the pay scale of the higher post in fixation of pay on promotion within the same scales.

All Ministers/Divisions/Departments.

Attended
C.T.C
so (lit)

(IRSHAD AHMED)
Section Officer (R-2)

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD (SOSR-1) 2-123/2014
Dated Peshawar the 21st February, 2014



To:

1. All the District & Agency Accounts Officers in Khyber Pakhtunkhwa
2. The Member, Board of Revenue, Khyber Pakhtunkhwa
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa
6. The Secretary, Finance FATA / FATA Secretariat, Peshawar
7. All Heads of Attached Departments in Khyber Pakhtunkhwa
8. All Additional Commissioners in Khyber Pakhtunkhwa
9. All District Agents / District Sessions Judges in Khyber Pakhtunkhwa
10. The Registrar, Peshawar High Court, Peshawar
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa
13. The Accountant General, Khyber Pakhtunkhwa, Peshawar

Subject: GRANT OF PREMATURE INCREMENT ON PROMOTION
WITHIN THE SAME SCALE.

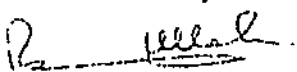
Dear Sir,

I am directed to refer to the subject noted above and to say that under Rule 10 (2) of the Khyber Pakhtunkhwa Civil Services Pay Revision Rules - 1978, one advance increment is admissible to the Civil Servants, at the time of their promotion to higher posts, who are already drawing pay in the basic pay scales of the higher post.

2. Now, in pursuance to the Government of Pakistan, Finance Division, Islamabad Office Memorandum No.F.11(30)R-2/2010-1150 dated 5th November, 2012, (copy enclosed), the competent authority is pleased to allow one premature increment in the pay scales of the higher post in fixation of pay on promotion within the same pay scale in all cases of promotion to higher posts carrying the same basic pay scales, meaning thereby that one advance increment as next stage and another as a premature increment will be admissible in such cases of promotion.

3. These orders will be effective from the date of its issuance.

Yours faithfully,

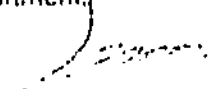

(RAZAULLAH KHAN)
Addl. Secretary (Regulation)


Endst: No. FD (SOSR-1) 2-123 /2014

Dated 21st Feb, 2014

Copy for information & necessary action to the:-

1. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa
2. All the District Comptroller of Accounts in Khyber Pakhtunkhwa.
3. The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar
4. The Director, FMU, Finance Department
5. The Treasury Officer, Peshawar.
6. The Secretary, Board of Revenue, Khyber Pakhtunkhwa.
7. All the District & Agency Accounts Officers in Khyber Pakhtunkhwa / FATA
8. All the Section Officers / Budget Officers in Finance Department, Khyber Pakhtunkhwa, Peshawar.
9. The Private Secretary to Senior Minister for Finance, Khyber Pakhtunkhwa.
10. The Private Secretary to Secretary / P.As to Special Secretary, Additional Secretaries, Deputy Secretaries in Finance Department.


(MASOOD KHAN)
Deputy Secretary (Reg-II)

Attested
C.T.-C
Sd/-




GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE
DEPARTMENT

11

No. B&A/GAD/P-File/ 5602

Dated Peshawar the 13/04.2021

To,

The Secretary to
Government of Khyber Pakhtunkhwa,
Finance Department Peshawar.

Subject:- REQUEST FOR GRANT OF PRE-MATURE INCREMENT ON
PROMOTION WITHIN THE SAME SCALE.


I am directed to refer to the application of Syed Wajid Ali Shah Senior Scale Stenographer (BPS-16) of this office dated 11/03/2021 on the subject noted above, (copy enclosed).

Syed Wajid Ali Shah Junior Scale Stenographer (BPS-12), was allowed Selection Grade (BPS-15) w.e.f 09-09-1999 (copy enclosed), later on, he was promoted in the same scale from Junior Scale Stenographer/Selection Grade (BPS-15) to Senior Scale Stenographer (BPS-15) on 29/01/2008 and allowed one advance increment as next stage (copy enclosed). However, a pre-mature increment was not allowed to him up till now.

Syed Wajid Ali Shah, Senior Scale Stenographer (BPS-15) has requested for allowing a Pre-mature increment being same scale promotion in light of Government of Khyber Pakhtunkhwa Finance Department (Regulation Wing) letter No.FD/(SOSR-I)2-123//2014 dated 21/2/2014 alongwith its enclosures (copies enclosed).

It is requested that this office may kindly be advised as to whether the benefit of pre-mature increment can be allowed to him w.e.f. 21.02.2014 on the said promotion case or otherwise.

An early action is requested please.

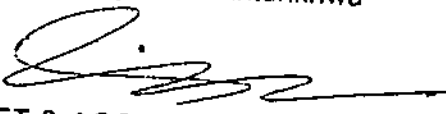

BUDGET & ACCOUNTS OFFICER

Endst: No. B&A/GAD/P-File/ 5603

Dated Peshawar the 13/04.2021

Copy forwarded for information to Syed Wajid Ali Shah S/Scale Stenographer of the office of Director B&A FE&W Department Khyber Pakhtunkhwa Peshawar for information.

Att: Steel
C.T.C
SOCD


BUDGET & ACCOUNTS OFFICE

12/4/21

To

The Worthy Director,
Budget & Accounts Cell,
Forestry, Environment & Wildlife Department, Peshawar.

12

Subject: REQUEST FOR GRANT OF PREMATURE INCREMENT ON PROMOTION WITHIN THE SAME SCALE

R/Sir,

I have the honour to submit that the Govt: of Khyber Pakhtunkhwa Finance Department (Regulation Wing) vide letter No. FD (SOSR-1) 2-123 / 2014 dated 21.02.2014 along-with its enclosures, whereas one premature increment of the higher post on promotion within the same scale has been allowed to those employees, who have been promoted within the same scale vide (**Annex-I**).

It is pertinent to mention here that, I had allowed **Selection Grade** as Senior Scale Stenographer from BPS-12 to **BPS-15** w.e.f. 09.09.1999 vide Govt: of NWFP (Now Khyber Pakhtunkhwa), Forestry, Fisheries & Wildlife Department Order No.SO(G/A)FFWD/1499/2001 dated 24.11.2001 at (**Annex-II**), Later on, promoted in the same scale to BPS-15 vide Order No.SO(Estt)/Envt/1-3/2K5/149-54 dated 29.01.2008 vide (**Annex-III**).

Sir, the Khyber Pakhtunkhwa Finance Department referred in his above quoted letter, the Government of Pakistan Finance Division O&M No.F.11(30)R-2/2010-1150 dated 05.11.2012, wherein, mentioned in para-5, "the judgment of the Hon'ble Supreme Court of Pakistan in Mr. Hameed Akhtar Niazi case (1996 SCMR 1185), the benefit of judgment of the Supreme Court of Pakistan mentioned above "may be extended in all other similar cases to the non-litigating employees accordingly" vide (**Annex-II**), therefore, the above decision being a Hon'ble Supreme Court of Pakistan order's are implemented to all those Government servants in the whole country, who have been promoted within the same pay scale.

It is to mention here that the Khyber Pakhtunkhwa Finance Department stated in his above cited letter in para-02, wherein it has been clearly mentioned that "one advance increment as **next stage** and **another as a premature increment** will be admissible in such cases of promotion". The undersigned has also been granted one advance increment as next stage, but another as a premature increment has not been granted so far.

It is, therefore requested that keeping in view the above, I may kindly be allowed/granted one premature increment w.e.f. 21.02.2014 in light of the above orders vide (**Annex-I**), please.

Thanks sir,

Yours Obediently

Syed Wajid Ali Shah
(Syed Wajid Ali Shah)
PA/SSS (BPS-16) 11/3/2014

Dated: 11/03/2014

self-contained
with rules (relevant)
applicant can draw
or not.
it by rules
whether the
note quoting all
put up on file
with self-contained

11/3/2014

AM/SS

11/3

G.M.D

Attested
C.T-C
(Soclit)





GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar @ http://www.finance.gkp.pk | facebook.com/GoKPEDs | twitter.com/G

NO. FD (SOSR-1) 2-123/2021(S.Wajid Ali Shan)
Dated Peshawar the: 23-04-2021

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3023
22-4-2021

To: 24-04-2021
10/07
2351

The Budget & Accounts Officer,
Forestry, Environment & Wildlife Department,
Peshawar.

Subject: - REQUEST FOR GRANT OF PREMATURE INCREMENT ON PROMOTION WITHIN THE SAME SCALE.

Please refer to your letter No.B&A/GAD/P-File/5002 dated 13-04-2021 on the subject noted above and state that the official concerned was promoted within the same scale on 29-01-2008 and accordingly, he was granted one advance increment as next stage as per his entitlement at that time.

2. Moreover, premature increment is not admissible to him on the ground that his promotion had taken place prior to issuance / effectiveness of Finance Department's policy letter No.FD (SOSR-1)2-123/2014 dated 21-02-2014.

(REHMAT KHAN)
SECTION OFFICER-(SR-1)

30/4/2021
B&A

Attysted
C.T.C
SOSR
23/4/21

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**BEFORE THE KHYBER PAKHTUNKHWA FINANCE
TRIBUNAL**

SERVICE APPEAL No. 312/2024

SYED WAJID ALI SHAH, SENIOR SCALE STENOGRAPHER BPS-16, BUDGET &
ACCOUNTS CELL, CLIMATE CHANGE, FORESTRY, ENVIRONMENT & WILDLIFE
DEPARTMENT, KHYBER PAKHTUNKHWA

..... APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

..... RESPONDENTS

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 2 & 3

Respectfully Sheweth

Preliminary objections

1. That the appellant has no locus standi to file the instant Appeal.
2. That the appeal is not maintainable in its present form.
3. That the appellant is not an aggrieved person to file the instant appeal.
4. The instant appeal is barred by law and time.

FACTS

1. Incorrect, initially the appellant was appointed as Stenographer BS-12 in the Forest Department, Khyber Pakhtunkhwa in **1987 (Flag-A)**, which is an attached formation of Climate Change, Forestry, Environment & Wildlife Department and later, absorbed in the Budget & Accounts Cell of Climate Change, Forestry, Environment & Wildlife Department on **8th September, 1999 (Flag-B)**. On the recommendations of DPC, the appellant was granted selection grade in BPS-15 w.e.f 9th September, 1999 vide order dated 24th November, 2001 at Flag-C.
2. Pertains to record, hence no comments.
3. Correct. However, the decision made by the Government of Pakistan Finance Division as outlined in their memorandum dated 5th November, 2012 (Flag-D) was implemented by the Provincial Government of Khyber Pakhtunkhwa on 21st February, 2014 (Flag-E) thereby allowed one premature increment in the pay scales of the higher post in fixation of pay on promotion within the same pay scale in all cases of promotion to higher posts carrying the same basic pay scales, with immediate effect rather than being applied retrospectively.
4. As explained and elaborated in paragraph 3 above.

5. Incorrect and misleading, hence denied. The appellant was granted Selection Grade BS-15 w.e.f 9th September, 2009 and later, promoted within the same scale from Junior Scale Stenographer / Selection Grade BS-15 to Senior Scale Stenographer BS-15, on 29th January, 2008. Upon Promotton, he received one advance increment as next stage in accordance with the rules. However, when the appellant submitted application on 11th March, 2021 for premature increment w.e.f 21st February, 2014 based on his 2008 promotion within the same scale, the Respondent No. 02 department "Forestry, Environment & Wildlife Department" consulted the Finance Department (Flag-F), which advised that premature increment was not admissble since his promotion occurred prior to the issuance / effectiveness of Finance Department's policy letter dated 21st February, 2014 (Flag-G). Hence his departmental appeal was rightly rejected being not covered under the policy Ibid.
6. Incorrect as elaborated in paragraphs 3 & 5 above, hence the appellant has no cause of action to file the instant appeal.
7. As explained in paragraph 6 above.

GROUNDS

- A. Incorrect and misleading, hence denied. The appellant's case for premature increment w.e.f 21st February, 2014 based on his 2008 promotion within the same scale, being not covered under the Finance Department, Khyber Pakhtunkhwa policy dated 21st February, 2014 was rejected as already explained in detail in Para 5 of the facts above.
- B. Incorrect. The appellant was treated strictly in accordance with the rules as evident from Para 5 of the facts above.
- C. Incorrect. His case was dealt in accordance with the rules / policy without any discrimination.
- D. Incorrect. The factual / legal position has been explained in Paras 3 & 5 of the facts above.
- E. Incorrect as explained Paras 3 & 5 of the facts above.
- F. Incorrect. The appellant was treated fairly and his case was decided as per the rules, without any bias as explained in Paras 3 & 5 of the facts above.
- G. Incorrect. As elaborated and explained in Paras 3 & 5 of the facts above.
- H. No comments.

In view of the above, it is humbly prayed that the instant service appeal being devoid of merit may kindly be dismissed, please.

[Handwritten signature]

Secretary to Govt: of Khyber
Pakhtunkhwa
Climate Change, Forestry,
Environment & Wildlife Department
Respondent No. 2

Secretary to Govt: of Khyber
Pakhtunkhwa
Finance Department /
Respondent No. 3

*Submitted for vetting
Pl.*

*Approved
29/8/2023*

Assistant Advocate General
Khyber Pakhtunkhwa
Services Tribunal Peshawar

CamScanner

*Vetted Subject to attachment
of all annexures, affidavit and
approval of AAJ / ASST AG
29/8/2023*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL No. 312/2024

Syed Wajid Ali Shah, Senior Scale Stenographer BPS-16, Budget & Accounts Cell,
Climate Change, Forestry, Environment & Wildlife Department, Khyber
Pakhtunkhwa

..... APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

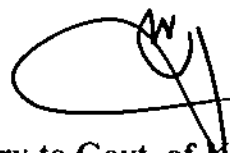
..... RESPONDENTS

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 2 & 3

AFFIDAVIT

I, **Shahid Zaman**, Secretary to Govt. of Khyber Pakhtunkhwa, Climate Change, Forestry, Environment & Wildlife Department solemnly affirm and declare on oath that the contents of enclosed parawise comments alongwith relevant attached documents are true and correct to the best of my knowledge and belief. Nothing has been concealed from this Hon'ble Court.

DEPONENT


 Secretary to Govt. of Khyber Pakhtunkhwa,
 Climate Change, Forestry, Environment & Wildlife
 Department



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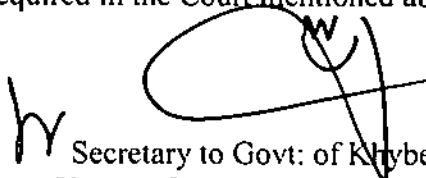
GOVERNMENT OF KHYBER PAKHTUNKHWA
CLIMATE CHANGE, FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT
(LITIGATION SECTION)
(091-9212103)

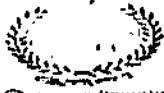
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AUTHORITY LETTER

NO. SO(Lit:)/CCFE&WD/2-990/2024/Waji Ali Shah:- Mr. Zia Ullah, Section Officer (Litigation), Climate Change, Forestry, Environment & Wildlife Department bearing C.N.I.C No. **15602-6263246-3** and Cell No. **0312-9888383** is hereby authorized to appear in the Peshawar High Court, Peshawar to file reply / comments, attend the Court on every hearing in Service Appeal No. 312/2024 titled "Syed Wajid Ali Shah v/s Government of Khyber Pakhtunkhwa & others" on behalf of Secretary to Govt. of Khyber Pakhtunkhwa, Climate Change, Forestry Environment & Wildlife Department till final decision of the Court.

He is also authorized to file written reply, produce record and record evidence on his behalf, if any, required in the Court mentioned above.


Secretary to Govt: of Khyber Pakhtunkhwa
Climate Change, Forestry, Environment & Wildlife Department



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Dated Peshawar, the 24th July, 2024

NOTIFICATION

No.SO(A)/FD/1-16/2024. In supersession of this Department's notification of even no. dated 20.11.2022, the following powers of approval/sanction are hereby delegated to the officers of Finance Department, with immediate effect, in the best public interest.

1. SPECIAL SECRETARY (ADMN. REVENUE & REGULATION).

- i. Posting/transfer of BS-18 officers within the Department and Directorate of Treasuries & Accounts and Local Fund Audit, Khyber Pakhtunkhwa.
- ii. Sanction of Leave salary and encashment of leave in lieu of LPR to officers within the Department and Directorate of Treasuries & Accounts and Local Fund Audit, Khyber Pakhtunkhwa.
- iii. GP Fund and Benevolent Fund cases of the employees of Finance Department, Directorate of Treasuries & Accounts and Local Fund Audit, Khyber Pakhtunkhwa
- iv. Condonation of service period for 10 years qualifying service for pension.
- v. Sanction of all kinds of leave, except casual leave to the officers of Finance Department, Directorate of Treasuries & Accounts and Local Fund Audit, Khyber Pakhtunkhwa from (BS-17 to BS-19).
- vi. Departmental Promotion Committee meetings of attached formations of Finance Department. However, its minutes will be approved by Secretary Finance.
- vii. SSRC meetings however, its minutes will be approved by Secretary Finance.
- viii. Signing of Para-wise comments in court cases, on behalf of Secretary Finance.
- ix. Transfer of funds to Local Governments/TMAs upto Rs.50,000 million.
- x. Sanction of investigation of arrears claim of Pay & Allowances including TA.
- xi. Sanction of Pension/family pension cases of the employees of Finance Department.
- xii. Sanction of all kinds of interest free loan in r/o the employees of Finance Department and its attached formations.
- xiii. Adjustment of electricity dues of all departments against electricity duty and at source deductions made by Federal Government.
- xiv. Grant of all types of study leave.
- xv. Sanction of Ph.D. & M.Phil. allowance.

2. SPECIAL SECRETARY (BUDGET).

- i. Release of funds on account of death compensation (Shuhada Package) in respect of civil servants/ civilian.
- ii. Release of funds approved on summary by Competent Authority/forum upto Rs. 100,000 million.
- iii. Foreign Exchange Budget.
- iv. Release of funds for utilities from block allocation.
- v. Release of withheld Budget upto Rs.5,000 million under all objects.
- vi. Approval of Re-appropriation of funds upto Rs.50,000 million (Current & Dev. expenditure).
- vii. Creation of OSD posts in Establishment Department for the period beyond 03 months.
- viii. Advance payment under ADP schemes, upto Rs.100,000 million. However, the cases of advance payment to donor agencies and other agencies / organizations shall be approved by Secretary Finance.
- ix. Revival and release of the donor's fund credited to Account-I upto Rs.200,000 million surrendered by departments
- x. Approval for Re-imbusement of Medical charges upto Rs. 1,000 million.
- xi. Release of funds on account of encashment of leave in lieu of LPR.
- xii. Release of Pension Commutation upto Rs 300,000 million.
- xiii. Release of funds on account of investigation of arrears claim of Pay & Allowances including TA, after sanctioning thereof by the Regulation Wing of Finance Department.
- xiv. Approval of revenue clearance of all ADP projects, PC-Is, upto Rs.600,000 million.
- xv. Release of PSDP budget, after confirmation from Ways & Means Section of Finance Department.
- xvi. Additional funds for utilities upto Rs.50,000 million.

DEPARTMENT OF SECRETARIES

6. ADDITIONAL SECRETARY (REGULATION)

- i. Attendance of meetings with KPOGCL
- ii. Sanction of investigation of arrears claims and pension contribution in respect of civil servants.
- iii. Advice/sanction of notified Allowances in respect of civil servants.
- iv. Grant of extension in deputation cases
- v. Grant of additional charge allowance.
- vi. Approval of draft letter to Administrative Departments in respect of upgradation cases in light of approved documents by the competent authority.
- vii. Authentication of Audit Copies in light of approval of the competent authority.
- viii. Signing of para-wise comments on behalf of Secretary Finance pertaining to Service Tribunals cases

7. DEPUTY SECRETARY (BUDGET)

- i. Release of funds from block allocation for Medical Re-impbursement Charges upto Rs.0.100 million.
- ii. Creation of OSD posts of Establishment Department up to one month.
- iii. Release of funds on account of death compensation cases except shuhada package in respect of deceased civil servants upto BPS-05
- iv. Creation of Supernumerary post in Police Department (upto 50 posts).
- v. Release of withheld funds on account of leave salary / encashment in lieu of LPR of all departments upto Rs.0.500 million
- vi. Release of additional funds for Pay and Allowances upto Rs.5.000 million.
- vii. Representation of Finance Department in the meetings of F&PC and Syndicate of all Universities as well as Board of Governors and Board of Directors of all relevant Autonomous, Semi-Autonomous Bodies & Institutions

SECRETARY FINANCE

Endst. No. & Date Even.

Copy forwarded to:

1. All Budget/Section Officers, Finance Department.
2. PS to Advisor to the Chief Minister Khyber Pakhtunkhwa for Finance.
3. PS to Secretary, Finance Department.
4. PS to Special Secretary (A&R), Finance Department.
5. PS to Special Secretary (Budget), Finance Department.
6. PA to Director (FMIU), Finance Department.
7. PAs to All Additional Secretaries, Finance Department.
8. PAs to All Deputy Secretaries, Finance Department.
9. Master file.

(ZEESHAN KHAN)
SECTION OFFICER (ADMN)

24/07/24