

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. 470/ 2024

Abdul Raul Khan, Girdawar, Circle Orash-II, Abbottabad.....

.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue (SMBR),
Peshawar and others

..... Respondents

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..... Respondents

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

Service Appeal No. 470/2024

Abdul Rauf Khan Girdawar Circle Orash-I, Abbottabad.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through Senior Member Board of Revenue, KP Peshawar & others.

Khyber Pakhtunkhwa
Service Tribunal

...RESPONDENTS

Date: 17538

Dated: 01-11-24

Respectfully Sheweth:

Parawise Comments on behalf of Respondent No. 01, 02 & 03 are submitted as under;

Preliminary objections:

1. That the appellant has no locus standi.
2. That the appellant has not come to this Honorable Court with clean hands.
3. That the appellant has suppressed the material facts from this Honorable Court, hence not entitled for any relief and appeal is liable to be dismissed without any further proceeding.
5. That both the decisions made by the authorities i.e. DPC forum and the Commissioner Hazara Division, Abbottabad are true and correct as per law and rules, hence appeal is liable to be dismissed.
6. That more points shall be agitated at the time of arguments.

ON FACTS:

1. No comments, pertains to record.
2. Incorrect. In the DPC meeting held on 15.03.2023, minutes of which circulated vide No. 1/2/1751-53/AE (Rev) dated 22.03.2023, the promotion case of the appellant to the post of Kanungo (BPS-11) was deferred by the DPC forum unanimously due to registration of FIR against him and pendency of his case in the Anti-Corruption Court.
3. In this regard it is stated that the promotion case of the appellant was considered in the DPC meeting held on 13.09.2023, minutes of which were circulated vide No. 1/2/4193-95/AE(Rev) dated 20.09.2023 (Annex-A), in which he was promoted to the post of Kanungo (BPS-11) on regular basis as per his correct seniority position in Seniority list as stood on 31.12.2022, copy of seniority list is attached as Annexure-'B'.
4. No comments.

5. Incorrect. No junior official to the appellant in the Seniority list was promoted in the DPC meeting held on 22.03.2023 (minutes of meeting attached as Annexure-C). In the said meeting Mr. Muhammad Hanif was promoted to the post of Kanungo (BPS-11) on regular basis who is senior to the appellant according to the final seniority list of Patwaris (BPS-09) of Abbottabad District as stood on 31.12.2022, while another official namely Mr. Asad Ali Shah who is junior to the appellant was appointed to the post of Kanungo on acting charge basis and in acting charge appointment the official is not shifted to seniority list of above grade, so above said acting charge appointment had no effect on the appellant's seniority position.
6. The appellant filed appeal before Commissioner Hazara Division, Abbottabad i.e. Respondent No. 02 against the DPC meeting held on 20.09.2023 and his promotion order dated 20.09.2023 demanding therein that he may be promoted on retrospective date i.e. 18.03.2023 the date of previous DPC meeting, which was rightly rejected by the Respondent No. 02 vide order bearing No. CHD/Reader/10/2(B)/15172-74 dated 17.11.2023 (Annex-D).

GROUND:

- a) In the instant case no junior official to the appellant in the seniority list has been promoted to the post of Kanungo as per seniority list of Patwaris maintained in the office of Deputy Commissioner, Abbottabad, therefore, his stance to provide promotion on retrospective date when juniors to the appellant were promoted is against the facts and promotion/deferment policy of Provincial Government.
- b) Incorrect. The legal principle and wisdom behind this is that in cases where the accused and allegations are innocent and unfound respectively, then their right shall remain protected. On the other hand in the instant case the accused has been apprehended red handed in corruption case while taking bribe in a trap set by Judicial Magistrate and case of which was subjudice in Anti-Corruption Court at the time of DPC meeting.
- As per section-IX of the Promotion Policy (Annex-E), promotion case of the petitioner was placed before the DPC for consideration. However, in view of seriousness of the case being his involvement in corruption as stated above his case was deferred by DPC being competent forum as per law.
- c) Incorrect. As per promotion/deferment policy of the Provincial Government, promotion will always be notified with immediate effect, so the stance of the appellant with regard to his promotion from the date of deferment is totally wrong and against the law/rules.

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- d) As in para No. (b) & (c) above.
e) Detailed reply has already been given in the preceding paras.

Keeping in view of the above, it is stated that no injustice is committed with the appellant, and Department Promotion Committee being competent forum recommended his promotion to the post of Kanungo (BPS-11) strictly as per his correct seniority position keeping in view the prevailing law/rules. Moreover, Commissioner Hazara Division Abbottabad rightly dismissed his appeal for promotion from retrospective date vide order bearing No. CHD/Reader/10/2(B)/15172-74 dated 17.11.2023.

It is therefore, prayed that appeal of the Appellant being baseless may kindly be dismissed on above factual grounds, please.


COMMISSIONER HAZARA DIVISION,
ABBOTTABAD
(Respondent No. 2)

Syed Raheem-ur-Rasool


DEPUTY COMMISSIONER
ABBOTTABAD
(Respondent No. 3)

Khalid Iqbal


SENIOR MEMBER BOARD OF REVENUE,
KHYBER PAKHTUNKHWA, PESHAWAR
(Respondent No. 1)

Syed Imtiyaz Shah

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"Annex - A"



OFFICE OF THE
DEPUTY COMMISSIONER
ABBOTTABAD

No. 12/4193-95/AE (Rev)

Dated 20/09/2023

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD
ON 13.09.2023 AT 12.00 PM UNDER THE CHAIRMANSHIP OF DEPUTY
COMMISSIONER ABBOTTABAD

A meeting of Departmental Promotion Committee was held on 13.09.2023 at 12.00 PM under the Chairmanship of Deputy Commissioner, Abbottabad. The following attended:-

- | | |
|---|--------------|
| 1. Deputy Commissioner Abbottabad. | ... In chair |
| 2. Additional Deputy Commissioner (General), Abbottabad. | ... Member |
| 3. Assistant to Commissioner (Poll/Dev), Hazara Division, Abbottabad
(Rep of Commissioner Hazara Division, Abbottabad) | ... Member |

PROMOTION OF PATWARIS (BPS-09) TO THE POST OF KANUNGO (BPS-11).

In the commencement of meeting, the forum was informed that out of the sanctioned strength of 15 posts of Kanungos, 01 posts of Kanungo is lying vacant due to the promotion of Gul Nawaz Khan Kanungo to the post of Naib Tehsildar (BPS-14) on regular basis vide Board of Revenue, Revenue & Estate Department Peshawar order bearing No. Estt:V/DPC/NT/2023/2135-43 dated 20.01.2023.

The method of promotion to the post of Kanungo as per Tehsildar, Naib Tehsildar, subordinate Revenue Service Rules 2008 as revised vide Notification No. 1942/Estt:1/135/SSRC dated 23.01.2015 by the Secretary to Government of Revenue & Estate Khyber Pakhtunkhwa Peshawar is as under:-

"By promotion, on the basis of seniority-cum fitness, from amongst the Patwaris and Naib Office Kanungos of the district concerned with three years, service as such and who have passed the Departmental examination of Kanungo"

After examination of relevant record i.e Final Seniority list of Patwaris as stood on 31.12.2022 issued vide No.1271-77/AE (Rev) dated 27.02.2023 alongwith list of penal of senior most Patwaris, who have passed their Kanungo Departmental Examination, the synopsis of ACRs alongwith original ACRs and certification to the affect that no departmental/NAB/Anti-Corruption enquiry is pending against the concerned patwari, the DP&SC made the following decision/recommendation:-

PENAL OF SENIOR MOST PATWARIS FOR PROMOTION TO THE POST OF
KANUNGO (BPS-11) ON REGULAR BASIS

S.#	Name of Patwari	Recommendation.
1.	Abdul Rauf	The DPC forum did not agree to his request for promotion on retrospective date, as he was deferred and not superseded. However, the Departmental Promotion Committee found him fit for promotion as Kanungo (BPS-11) on regular basis with immediate effect.
2.	Ilyas Khan	His case was discussed in DPC and will be considered on occurrence of vacancy on his turn.

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Syed Asad Ali Shah	His case was discussed in DPC and will be considered on occurrence of vacancy on his turn.
Mujib Nawaz	His case was discussed in DPC and will be considered on occurrence of vacancy on his turn.

The DPC unanimously approved/recommended the promotion of the Patwari at S.No.01 to the post of Kanungo (BPS-11) on regular basis.

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

Additional Deputy Commissioner (General)
Abbottabad
(Member)

Assistant to Commissioner (Poll/Dev),
Hazara Division, Abbottabad
(Member)

Deputy Commissioner
Abbottabad
(Chairman)

Attested
&

Endst No. & Date Even:

By forwarded to the:-

1. Commissioner Hazara Division Abbottabad.
2. Additional Deputy (General) Commissioner Abbottabad.
3. Assistant Commissioner Abbottabad.

Deputy Commissioner
Abbottabad

gc

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Annex - "B"

FINAL SENIORITY LIST OF PATWARIES AS STOOD ON 31.12.2022 OF ABBOTTABAD DISTRICT

S.No	Name of Patwari	Qualification	Date of Entry into Candidate Register of Patwarian	Date of Birth	Date of appointment	Kanungo Exam: Passed/ Failed/ Not Appeared
1.	Hamayun Khan S/o Mehboob Khan	Matric	03-09-1985	08-05-1964	29-08-1997	Not passed
2.	Tahir Farooq S/o Qasim Muhammad Azam	F.A	30-12-1985	04-07-1964	12-07-1997	Not passed
3.	Ayaz S/O Ali Zaman	Matric	30-12-1985	08-01-1963	03-07-2001	Not passed
4.	Muhammad Hanif s/o Yousaf Khan	B.A	17-07-1997	03-05-1971	04-07-2001	Passed In year 2022
5.	Abdul Raut Khan s/o Jhandad Khan	B.A	17-07-1997	10-05-1974	04-07-2001	Passed
6.	Javed s/o Abdul Rehman	Matric	30-12-1985	20-02-1967	18-06-2003	Not passed
7.	Ilyas Khan s/o Akram Khan	Matric.	11-05-1986	10-04-1964	18-06-2003	Passed
8.	Syed Asad Ali Shah S/o Syed Sarwar Shah	B.A	17-07-1997	10-04-1974	01-09-2003	Passed
9.	Adil Nawaz s/o Nawaz Khan	F.A	17-07-1997	04-05-1974	01-09-2003	Passed
10.	Nahed Gul s/o Abdul Waheed	B.A	17-07-1997	04-05-1974	01-09-2003	Passed
11.	Akhlaq Ahmed s/o Abdul Rasheed	F.A	17-07-1997	06-04-1973	01-09-2003	Not passed
12.	Shafique Ahmed s/o Gul Zaman	MSC Pak.Studies	17-07-1997	21-04-1973	01-09-2003	Passed In year 2022
13.	Muhammad Sajjad s/o M. Farid Khan	F.A	17-07-1997	25-04-1976	01-09-2003	Passed
14.	Iftikhar Khan S/o Ali Bahadur Khan	F.A	17-07-1997	01-02-1973	01-04-2005	Passed In year 2022
15.	Mumtaz Khan s/o Anwar Khan	B.A	17-07-1997	15-05-1976	01-04-2005	Passed In year 2022
16.	Muhammad Banaris s/o Ghulam Farid	F.A	05-11-1997	03-03-1975	01-04-2005	Passed
17.	Taber Khan S/o M. Afzal Khan	F.A	05-11-1997	16-03-1976	01-04-2005	Passed
18.	Tanveer S/o Muhammad Ayub	F.A	28.02.1999	01.01.1974	01-04-2005	Passed
19.	Faisal Khan s/o Jhangeer Khan	F.A	30-08-2000	22-06-1977	01-04-2005	Passed In year 2022
20.	Baber Rehman Qureshi s/o Abdul Rehman Qureshi	B.A	11-12-2003	31-12-1975	01-04-2005	Passed
21.	Shahid Khan s/o Munshi Khan	F.A	30-08-2000	04-01-1976	08-08-2005	Passed
22.	Mehboob s/o Naseem	B.A	30-08-2000	02-04-1973	01-11-2006	Passed
23.	Sajad Ahmed s/o Muhammad Nawaz Khan	B.A	11-12-2003	13-04-1976	06-12-2006	Passed In year 2022
24.	Zeesan Jadoon s/o Fida Muhammad	B.A	11-12-2003	14-10-1981	18-12-2006	Passed
25.	Almal Khan s/o Mir dad Khan	F.A	11-12-2003	01-01-1978	03-04-2007	Not passed
26.	Ghulam Khasro s/o Muhammad Mumtaz Khan	B.A	11-12-2003	09-11-1978	21-09-2007	Not passed
27.	Amir Shahzad s/o Fazal Rehman	B.A	11-12-2003	12-09-1981	21-09-2007	Not passed
28.	Rashid Hameed S/o Abdul Hameed	B.A	11-12-2003	29-11-1981	21-09-2007	Passed

No.	Name of Patwari	Qualification	Date of Entry into Candidate Register of Patwarian	Date of Birth	Date of appointment	Examined Exam. Passed/Failed/Not Appeared
29.	Muhammad Niaz s/o Lal Khan	F.A	11-12-2003	20-01-1983	22-11-2007	Passed
30.	Shoaib s/o Hamayon Khan	B.A	12-03-2005	24-04-1981	22-11-2007	Passed
31.	Ishlaq Khan s/o Sarang Khan	B.A	12-03-2005	08-04-1980	22-11-2007	Passed
32.	Sardar Jhangeer s/o Sardar Gul Nawaz	B.A	21-09-2006	12-12-1984	22-11-2007	Passed
33.	Muhammad Khalid s/o Kala Khan	F.A	12-03-2005	10-12-1981	17-12-2007	Not passed
34.	Muhammad Sajid s/o M. Saadiq	B.A	21-09-2006	06-03-1981	17-12-2007	Passed
35.	Sajid Mehmood s/o Kholdad Khan	B.A	21-09-2006	01-01-1983	17-12-2007	Passed
36.	Asim Shahzed s/o Allah Dad	B.A	21-09-2006	14-05-1985	17-12-2007	Not passed
37.	Fartamor S/o Essa Khan	B.A	21-09-2006	01-07-1985	17-12-2007	Passed
38.	Shakir Hussain S/o Sabir Hussain	F.A	14-04-2008	13-06-1988	17-12-2007	Not passed
39.	Waseem Khan s/o Waistan Khan	F.A	21-09-2006	05-11-1978	01-12-2010	Not passed
40.	Tanveer Hussain s/o Muhammad Yaqoob	D.Com	21-09-2006	27-03-1981	01-12-2010	Passed
41.	Safeer Ahmed S/o Abdul Rasheed	F.A	21-09-2006	08-04-1985	01-12-2010	Not passed
42.	Nisar Aziz s/o Aziz-u-Rehman	B.A	22-03-2007	03-02-1983	01-12-2010	Passed
43.	Faisal Afsar S/o M. Afsar	B.A	14-04-2008	17-03-1985	01-12-2010	Passed
44.	Waqar Ali S/o Abdul Mateen Khan	B.A	14-04-2008	12-03-1981	01-12-2010	Passed
45.	Waqas Khan S/o Gul Muhammad Khan	F.A	14-04-2008	22-04-1987	01-12-2010	Passed
46.	Dil Afsar s/o Muhammad Daud	F.A	14-04-2008	05-02-1982	01-12-2010	Passed
47.	Yasir Khan s/o Uzaqat Khan	B.A	04-12-2010	13-03-1983	01-12-2010	Not passed
48.	Muhammad Asif S/o Habib ur Rehman	B.A	14-04-2008	01-01-1982	21-12-2011	Passed
49.	Hammad Ali S/o Aurangzeb Khan	F.A	14-04-2008	02-04-1989	14-06-2012	Passed in year 2022
50.	Ajmal Khan S/o Pervez Khan	B.A	14-04-2008	04-08-1987	14-06-2012	Passed
51.	Shah Murad S/o Niaz Hussain	B.A	14-04-2008	03-07-1983	14-06-2012	Passed in year 2022
52.	Tahir Jameel S/o Sher Ahmed Khan	B.A	14-04-2008	25-12-1982	14-06-2012	Passed
53.	Nasir Khan S/o Anwar Khan	F.A	14-04-2008	15-12-1978	14-06-2012	Not passed
54.	Murad Khan S/o Zirdad Khan	F.A	13-03-2010	17-12-1986	14-06-2012	Passed in year 2022
55.	Saqib S/o Mir Afzal	B.A	13-03-2010	15-07-1979	14-06-2012	Not passed
56.	Waseem Gul S/O Walayat Khan	B.A	13.03.2010	03-03-1988	14-10-2015	Passed in year 2022
57.	Saqib Sohail S/O Mohammad Afsar	F.A	13.03.2010	01-06-1982	14-10-2015	Not passed
58.	Muhammad Afsar S/o M. Daud	B.A	13.03.2010	01.01.1986	14-10-2015	Passed in year 2022
59.	Mohammad Riasat S/O M. Younis	F.A	13.03.2010	07-03-1982	14-10-2015	Passed in year 2022

Attended



Name of Patwari	Qualification	Date of Entry into Candidate Register of Patwarian	Date of Birth	Date of appointment	Kanungo Exams Passed/ Failed/ Not Appeared
60. Asim Nawaz S/O Muhammad Nawaz	M.A	13.03.2010	07-09-1990	14-10-2015	Passed
61. Shahid Nawaz S/o Shah Nawaz	B.A	13.03.2010	02.02.1986	14-10-2015	Passed
62. Amjad Khan S/o M. Bahar Khan	B.A	13.03.2010	16.03.1986	14-10-2015	Not passed
63. Ehsan Khan S/O Sultan Bakhat	F.A	13.03.2010	15-01-1986	14-10-2015	Not passed
64. Touqeer Ahmed S/O Muhammad Riaz	F.A	13.03.2010	16-01-1982	14-10-2015	Not passed
65. Waqas Nawaz S/O M. Nawaz	B.A	13.03.2010	28-11-1984	14-10-2015	Passed
66. Mohammad Shakir S/O M. Rafique	B.A	13.03.2010	02-03-1985	14-10-2015	Passed
67. Nasir Khan S/O Ahwal Khan	B.A	13.03.2010	15-03-1985	14-10-2015	Passed in year 2022
68. Qaiser Mehmood S/o M. Suleman	F.A	13.03.2010	27.07.1982	07-01-2016	Passed in year 2022
69. Qazi Muhammad Sajjad S/o Qazi Zardad	F.A	13.03.2010	05.10.1982	07-01-2016	Not passed
70. Mohammad Yasin S/o M. Miskeen	F.A	13.03.2010	10.02.1984	07-01-2016	Passed in year 2022
71. Yasir Imtiaz S/o Rawal Imtiaz	F.A	13.03.2010	10.04.1989	07-01-2016	Passed in year 2022
72. Sakhi Sultan S/o Rafi Sultan	B.A	13.03.2010	10.04.1989	07-01-2016	Passed in year 2022
73. Fawad Ali S/o Aurangzeb	F.A	13.03.2010	08.08.1986	07-01-2016	Not passed
74. Zeeshan Ashraf S/o M. Ashraf	B.A	13.03.2010	13.04.1987	07-01-2016	Not passed
75. Waqas Khan S/o Hamayun Khan	B.A	13.03.2010	04.03.1987	07-01-2016	Not passed
76. Nasir Nazeer Abbasi S/o Nazir Ahmed Abbasi	F.A	13.03.2010	01.02.1981	02.06.2016	Passed in year 2022
77. Anzer Sultan S/o Mir Afzal	F.A	13.03.2010	05.12.1984	02.06.2016	Not passed
78. Hanif Gul S/o Gul Hassan Abbasi	B.A	13.03.2010	12.03.1989	02.06.2016	Passed in year 2022
79. Waqar Hussain S/o Manzoor Hussain	F.A	13.03.2010	12.12.1979	02.06.2016	Passed in Year 2022
80. Qazi Kaleem S/o Qazi Muhammad Naeem Asif	F.A	13.03.2010	05.06.1985	02.06.2016	Not passed
81. Adil Mansoor Khan S/o Shamarez Khan	F.A	13.03.2010	05.19.1985	25.10.2016	Passed in year 2022
82. Syed Bilal Hussain Shah S/o Syed Naqeeb Hussain Shah	F.A	13.03.2010	15.04.1981	25.10.2016	Not passed
83. Muhammad Liaquat S/o Fazal ur Rehman R/o Dalola	F.A	13.03.2010	02.03.1985	10.01.2018	Not passed
84. Khurram Naqvi S/o Nazeer Hussain Shah R/o Havellan	F.A	13.03.2010	20.08.1988	10.01.2018	Not passed
85. Imran Khan S/o Faridoo Khan	F.A	13.03.2010	20.03.1981	09.04.2018	Passed in year 2022
86. Muhammad Shiraz S/o Muhammad Anwar	F.A	13.04.2018	03.04.1986	18.01.2021	Passed
87. Aftab Suleman S/o Muhammad Suleman	F.A	13.04.2018	24.05.1985	18.01.2021	Passed in year 2022

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Name of Patwar	Qualification	Date of Entry into Candidate Register of Patwarlan	Date of Birth	Date of appointment	Kanungo Exam: Passed/ Failed/ Not Appeared
88. Umad Gul Khan Jadoon S/o Nazar Gul Khan	BSC	13.04.2018	07.12.1985	18.01.2021	Not passed
89. Tariq Mehmood S/o Ali Sarwar	BA	13.04.2018	15.02.1982	18.01.2021	Not passed
90. Asad Afsar S/o Khan Afsar	BSC	13.04.2018	20.08.1984	18.01.2021	Not passed
91. Qazi Umair S/o Qazi Muhammad Flaz	BA	21.01.2020	14.02.1992	14.04.2021	Not passed
92. Abdul Razaq S/o Abdul Khalq	FA	13.04.2018	01.03.1980	14.04.2021	Passed
93. Naseer Ahmed S/o Bostan Lodhi	FA	13.04.2018	30.04.1986	14.04.2021	Not passed
94. Muhammad Siddique S/o Muhammad Ayub	FA	13.04.2018	19.03.1990	14.04.2021	Not passed
95. Sehar Gul S/o Ghulam Fareed	FA	13.04.2018	20.02.1990	14.04.2021	Not passed
96. Muhammad Zubair S/o Muhammad Ilyas	BA	13.04.2018	01.04.1990	14.04.2021	Not passed
97. Irshad S/o Muhammad Din	D.Com	13.04.2018	03.04.1979	14.04.2021	Passed in year 2022 Not passed
98. Umair Khan S/o Khan Bahadar Khan	BA	21.01.2020	22.04.1987	14.04.2021	Not passed

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DEPUTY COMMISSIONER
ABBOTTABAD

dated Abbottabad the 27-02-2023

No 1271-77 /AE(Rev)

Copy forwarded to:-

1. Tehsildar Abbottabad.
2. Tehsildar Havellan.
3. Tehsildar Settlement Havellan.
4. Tehsildar, Lora.
5. Tehsildar, Lower Tanawal.
6. Tehsildar Land Acquisition, Abbottabad.
7. District Kanungo, Abbottabad.

For information and to circulate seniority list amongst the Patwaris under their control.

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DEPUTY COMMISSIONER
ABBOTTABAD



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Annex-C

**OFFICE OF THE
DEPUTY COMMISSIONER
ABBOTTABAD**
No.1/2/1751-53/AE (Rev)
Dated 13/03/2023

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 15.03.2023 AT 01.00 PM UNDER THE CHAIRMANSHIP OF DEPUTY COMMISSIONER ABBOTTABAD

A Meeting of Departmental Promotion Committee was held on 15.03.2023 at 01.00 PM under the Chairmanship of Deputy Commissioner, Abbottabad. The following attended:-

1. Deputy Commissioner Abbottabad. ... In chair
2. Additional Deputy Commissioner (General), Abbottabad. ... Member
3. Assistant to Commissioner (Poll/Dev), Hazara Division, Abbottabad (Rep of Commissioner Hazara Division, Abbottabad) ... Member

PROMOTION OF PATWARIS (BPS-09) TO THE POST OF KANUNGO (BPS-11)

In the commencement of meeting, the forum was informed that out of the sanctioned strength of 15 posts of Kanungos, 02 posts of Kanungo become vacant due to the promotion of following senior most 02 Kanungos to the post of Naib Tehsildar (BPS-14) on regular basis vide Board of Revenue, Revenue & Estate Department Peshawar order bearing No. Estt:V/DPC/NT/2023/2135-43 dated 20.01.2023 and three Kanungos were appointed to the post of Naib Tehsildar on acting charge basis vide No. Estt:V/DPC/NT/2022/29193-29201 dated 21.10.2022 read with No. Estt:V/DPC/NT/2023/2144-52 dated 20.01.2023:-

- Attended
1. Gul Nawaz Khan Kanungo (BPS-11), promoted as Naib Tehsildar (BPS-14) on regular basis
 2. Tariq Mehmood Kanungo (BPS-11), promoted as Naib Tehsildar (BPS-14) on regular basis
 3. Muhammad Riaz Kanungo (BPS-11), appointed as Naib Tehsildar (BPS-14) on acting charge basis
 4. Chanzab Khan, Kanungo (BPS-11), appointed as Naib Tehsildar (BPS-14) on acting charge basis
 5. Pervez Iqbal, Kanungo (BPS-11), appointed as Naib Tehsildar (BPS-14) on acting charge basis

The posts of Kanungo vacated by the officials at S.No. 03 to 05 due to appointment as Naib Tehsildar on acting charge basis, two Patwaris as per seniority list have already been appointed as Kanungo on acting charge basis through Departmental Promotion Committee meeting held on 06.10.2021 vide Deputy Commissioner, Abbottabad order bearing No. 1/2/5895-10/AE(Rev) dated 06.10.2021.

Therefore, the forum considered the following vacant posts of Kanungos which were required to be filled by promotion from amongst senior most Patwaris:-

1. Two posts of Kanungos to be filled by promotion on regular basis.
2. One post of Kanungo to be filled by appointment on acting charge basis

Additional Deputy Commissioner (General) (Member)
 Deputy Commissioner (Chairman)
 Assistant to Commissioner (Poll/Dew) (Member)
 All DPC members
 Care for:

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

The DPC unanimously approved/recommended the promotion of the Patwaris as S.No.1 to the post of Kanungo (BPS-11) on regular basis and appointment of Patwaris as S.No. 03 to the post of Kanungo (BPS-11) on acting charge basis.

Sr	Name of Patwaris	Recommendation
1	Muhammad Hanif	He was considered and found fit for promotion as Kanungo (BPS-11) on regular basis with immediate effect.
2	Abdul Rani	His case was discussed in detail by the DPC and it came to the notice that a case FIR bearing No. 02 dated 07/08/2019 was registered against him u/s 161 P.C. Act in PS ACE, Abbotabad, against which his appeal is still pending in the Anti-Corruption Court. Moreover, his petition for promotion to the post of Kanungo is also subjudice in the Peshawar High Court. Abbotabad Bench. Keeping in view of the above, the DPC unanimously deferred his promotion case till final outcome of his cases and in the meanwhile the post of Kanungo will remain vacant.
3	Syed Asad Ali Shah	He was considered and found fit for appointment to the post of Kanungo (BPS-11) on acting charge basis with immediate effect.
4	Muhammad Gul	His case was discussed in DPC and will be considered on occurrence of vacancy on his turn.
5	Shauque Ahmed	His case was discussed in DPC and will be considered on occurrence of vacancy on his turn.

PENAL OF SENIOR MOST PATWARIS FOR PROMOTION/APPOINTMENT TO THE POST OF KANUNGO ON REGULAR/ACTING CHARGE BASIS

The method of promotion to the post of Kanungo as per Tehsildar, Subordinate Revenue Service Rules 2008 as revised vide Notification No. 1942/Estt./135/SSRC dated 23.01.2015 by the Secretary to Government of Revenue & Estate Khyber Pakhtunkhwa Peshawar is as under.

"By promotion, on the basis of seniority-cum fitness, from amongst the Patwaris and Naib Office Kanungos of the district concerned with three years, served as such and who have passed the Departmental examination of Kanungo"

After examination of relevant record i.e. Final Seniority list of Patwaris as stood on 31.12.2022 issued vide No.1271-77/AB (Rev) dated 27.02.2023 alongwith list of penal of senior most Patwaris, who have passed their Kanungo Departmental Examination, the synopsis of ACRs alongwith original ACRs and certification to the effect that no departmental/NAB/Anti-Corruption enquiry is pending against the concerned patwaris, the DP&SC made the following decision/recommendation:-

(12)

Annex - "D"

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OFFICE OF THE
COMMISSIONER HAZARA DIVISION
ABBOTTABAD

No. CHD/Reader/10/2 (B) 15172-74
Dated: 27/11/2023

ORDER
10/11/2023

Whereas, the appeal in hand is filed by Mr. Abdul Rauf against impugned promotion order dated: 20/09/2023 vide which the appellant has been promoted as Qanungo (BPS-11) on regular basis with immediate effect but the appellant has filed instant appeal with the pray that his promotion as Qanungo may be granted with retrospective effect.

Whereas, the appellant's promotion case was deferred by the DPC for time being in meeting held on 06/10/2021 due to registration of FIR against the appellant Under Section- 161 PPC 5(2) PC Act PS Anti-Corruption Establishment, Abbottabad and case was subjudice in the Court.

Attested
Whereas, the appellant was promoted as Qanungo on Regular Basis vide Deputy Commissioner, Abbottabad order No. 1/2/4188-92/AE(Rev) dated: 20/09/2023.

Whereas, the appellant feeling aggrieved, filed instant appeal with the stance that his promotion case may be considered with retrospective effect with all Service back benefits as well as Seniority of Qanungo w.e.f: 06/10/2021.

Whereas, the Comments on the instant appeal from Deputy Commissioner, Abbottabad were obtained vide this office letter No. Reader/CHD/11011-13 dated: 04/10/2023 and received the same from Deputy Commissioner Office, Abbottabad vide letter No. 4900-01/1/2/AE/(Rev) dated: 17/10/2023

And whereas, the appellant appeared in person for personal hearing in the presence of the representative of Deputy Commissioner, Abbottabad i.e. AAC (Rev), Abbottabad.



13

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After going through the contents of appeal careful perusal of the record, prevailing rules & providing the opportunity of personal hearing to the appellant and defendant, there is no solid ground to interfere in the promotion order of the appellant bearing No. 1/2/4188-92 20/09/2023. As per rules, promotion is always with immediate effect and not with retrospective effect. Moreover, since he was deferred from promotion due to a litigation case in the Anti-Corruption Court, he cannot be given any back benefits from date of previous DPC dated: 06/10/2021. The appeal in hand is rejected.

ANNOUNCED
10/11/2023

Attested
[Signature]

[Signature]
Commissioner
Hazara Division Abbottabad



14



**OFFICE OF THE
DEPUTY COMMISSIONER
ABBOTTABAD**

No. 4900-01 /112/AE (Rev)
Dated 17/10/2023

To

The Assistant to Commissioner (Rev/OA),
Hazara Division, Abbottabad.

Subject **DEPARTMENTAL APPEAL AGAINST THE IMPUGNED PROMOTION
ORDER DATED 20.09.2023**

Memo

Reference your letter No. Reader/ACR/CHD/11011-13 dated 04.10.2023 on the subject cited above.

In this regard it is stated that the appellant has been promoted to the post of Kanungo (BPS-11) on regular basis vide order bearing No. 1/2/4188-92/AE (Rev) dated 20.09.2023 in accordance with his correct merit position as per final seniority list of Patwaris as stood on 31.12.2022.

Alleged

As far as, the appeal/request of the appellant for promotion w.e.f 6.10.2021 (the date of previous DPC meeting in which his acting charge appointment case was deferred due to case in anti-corruption court) is concerned, it is stated that no regular promotion to the post of Kanungo was made at that time because of non-availability of any regular vacancy. Only 02 acting charge appointments were made to the post of Kanungo, and in acting charge promotion/appointment, the official is not shifted to seniority list of above grade, so these appointments had no effect on the appellant's seniority position.

Keeping in view of the above, it is transpired that no junior official to the appellant in the seniority list of the Patwaris of District Abbottabad has been promoted to the post of Kanungo on regular basis as yet, hence he was not superseded by any junior. Therefore, he is not entitled for promotion on retrospective date as per promotion/deferment policy of the Provincial Government. Moreover, the said policy indicates that promotion will always be notified with immediate effect. Therefore, appeal in hand may be filed being baseless, please.

[Signature]
Additional Deputy Commissioner
Abbottabad

Endst: No. & Date Even.

Copy forwarded to the PS to Deputy Commissioner, Abbottabad for information.

[Signature]
Additional Deputy Commissioner
Abbottabad

Annex - E

However, in case he returns to parent department, he would be considered for promotion only after he earns PER for one calendar year.

- h) A civil servant who has resigned shall not be considered for promotion no matter the resignation has yet to be accepted.

V. Deferment of Promotion:

(a) Promotion of a civil servant will be deferred, in addition to reasons given in para-IV, if

- (i) His inter-se-seniority is disputed/sub-judice.
- (ii) Disciplinary or departmental proceedings are pending against him.
- (iii) The PER dossier is incomplete or any other document/ information required by the PSB/DPC for determining his suitability for promotion is not available for reasons beyond his control.

~~(b) The civil servant whose promotion has been deferred will be considered for promotion as soon as the reasons for deferment cease to exist. The cases falling under any of the above three categories do not warrant proforma promotion but the civil servant will be considered for promotion after determining his correct seniority over the erstwhile juniors.~~

Alleged

(c) If an officer is otherwise eligible for promotion but has been inadvertently omitted from consideration in the original reference due to clerical error or plain negligence and is superseded, he should be considered for promotion as soon as the mistake is noticed.

(d) If and when an officer, after his seniority has been correctly determined or after he has been exonerated of the charges or his PER dossier is complete, or his inadvertent omission for promotion comes to notice, is considered by the Provincial Selection Board/ Departmental Promotion Committee and is declared fit for promotion to the next higher basic scale, ~~he shall be deemed to have been cleared for promotion along with the officers junior to him who were considered in the earlier meeting of the Provincial Selection Board/ Departmental Promotion Committee.~~ Such an officer, on his promotion will be allowed seniority in accordance with the proviso of sub-section (4) of Section 8 of the North-West Frontier Province Civil Servants Act, 1973, whereby officers selected for promotion to a higher post in one batch on their promotion to the higher post are allowed to retain their inter-se-seniority in the lower post. In case, however, the date of continuous appointment of two or more officers in the lower post/grade is the same and there is no specific rule whereby their inter-se-seniority in the lower grade can be determined, the officer older in age shall be treated senior.

(e) If a civil servant is superseded he shall not be considered for promotion until he earns one PER for the ensuing one full year.

(f) If a civil servant is recommended for promotion to the higher basic scale/post by the PSB/DPC and the recommendations are not approved by the competent authority

within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

VI. Date of Promotion:
Promotion will always be notified with immediate effect.

VII. Notional Promotion:
In respect of civil servants who retire (or expire) after recommendation of their promotion by the PSB/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be, and their pension shall be calculated as per pay which they would have received had they not retired/expired.

VIII. Promotion of Civil Servants who are awarded minor penalties.

- (a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.
- (b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

IX. Promotion in case of pending investigations by NAB

If there are any NAB investigations being conducted against an officer, the fact of such investigations needs to be placed before the relevant promotion board which may take a considered decision on merits of the case.

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.

Atty

PART-V

PROBATION AND CONFIRMATION

15. Probation. — (1) Persons appointed to posts by initial recruitment, promotion or transfer shall be on probation for a period of one year.

(2) The appointing authority, if considers necessary, may extend the probation period for one year as may be specified at the time of appointment.

(3) On the successful completion of probation period, the appointing authority shall, by specific order, terminate the probation:

Provided that if no specific order is issued on the expiry of the first year of probation period, the period of probation shall be deemed to have been extended under sub-rule (2):

Provided further that if no specific order is issued on the expiry of the extended period of probation, the period of probation shall be deemed to have been successfully completed.

16. Confirmation:-After satisfactory completion of the probationary period, a civil servant shall be confirmed; provided that he holds a substantive post, provided further that a civil servant shall not be deemed to have satisfactorily completed his period of probation, if he has failed to pass an examination, test or course or has failed to complete successfully a training prescribed within the meaning of sub-section (3) of Section 6 of the North West Frontier Province Civil Servants Act, 1973.

PART-VI

SENIORITY

17. Seniority :- (1) the seniority inter se of civil servants ⁵⁵(appointed to a service, cadre or post) shall be determined:-

(a) in the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission ⁵⁶[or as the case may be, the Departmental Selection Committee;] provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection; and

(b) in the case of civil servants appointed otherwise, with reference to the date of their continuous regular appointment in the post; provided that civil servants selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post.

Explanation-I:- If a junior person in a lower post is promoted to a higher post temporarily in the public interest, even though continuing later permanently in the higher

⁵⁴ Rule-15 substituted vide Notification No. SOR-V/E&AD/1-3/2009/Vol-VIII dated 16-2-2010.
⁵⁵ Substituted for the words appointment to a post in the same basic pay scale in a cadre by Notification No. SOR-I(S&GAD)4-1/80, dated 17-05-1989.
⁵⁶ The words inserted by Notification No. SOR-I(S&GAD)4-1/80/II, dated 04-02-1996.

post, it would not adversely effect the interest of his seniors in fixation of his seniority in the higher post.

Explanation-II:- If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted the person promoted first shall rank senior to the person promoted subsequently; provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incomplete record or for any other reason not attributing to his fault or demerit.

Explanation-III:- A junior person shall be deemed to have superseded a senior person only if both the junior and the senior persons were considered for the higher post and the junior person was appointed in preference to the senior person.

(2) Seniority in various cadres of civil servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates 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.

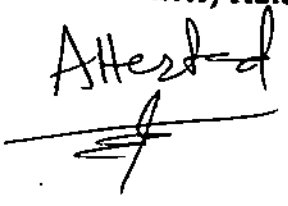
⁵⁷(3) In the event of merger/restructuring of the Departments, Attached Departments or Subordinate Offices, the inter se seniority of civil servants affected by the merger/restructuring as aforesaid shall be determined in accordance with the date of their regular appointment to a cadre or post.

⁵⁹(4) The inter-se-seniority of civil servants in a certain cadre to which promotion is made from different lower posts, carrying the same pay scale shall be determined from the date of regular appointment/promotion of the civil servants in the lower post.

Provided that if the date of regular appointment of two or more civil servants in the lower post is the same, the civil servant older in age, shall be treated senior.

18. **General Rules:** - In all matters not expressly provided for in these rules, civil servants shall be governed by such rules as have been or may hereafter be prescribed by Government and made applicable to them.

19. **Repeal:-** The North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1975, are hereby repealed.

Attested


⁵⁷ Sub-rule (3) of Rule 17 added vide Notification No. SOR-I(E&AD)4-1/80/IV, dated 28-5-2002.
⁵⁹ Sub-rule (4) of Rule 17 added vide Notification No.SOR-VI (E&AD) 1-3/2008 dated 19th November, 2009.

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. 470/ 2024

Abdul Rauf Khan, Girdawar, Circle Orash-II, Abbottabad.....

.....Appellant

VERSUS

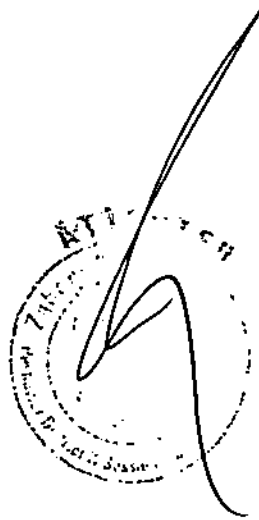
Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue (SMBR),
Peshawar and others

AFFIDAVIT

..... Respondents

I, Khalid Iqbal, Deputy Commissioner, Abbottabad, do hereby solemnly affirm and verify that the contents of foregoing comments are true and correct and nothing has been suppressed from this Honorable Court. It is further stated on oath that in this appeal, the answering respondents neither has placed ex-parte nor has their defense been struck off/cost


DEPONENT





**OFFICE OF THE
DEPUTY COMMISSIONER
ABBOTTABAD**

No. 226 /Estb

Date: 30/10/2024

AUTHORITY LETTER

Mr. Adeel ur Rehman, Incharge Litigation DC Office Abbottabad is here by authorized to submit reply / para wise comments / attend the Office of Khyber Pakhtunkhwa Service Tribunal Peshawar in Appeal No. 470 / 2024 in case titled *Abdul Rauf Khan Girdawar Circle Orush-II Abbottabad versus Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue (SMBR) and others* on behalf of undersigned.

**DEPUTY COMMISSIONER
ABBOTTABAD**