

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 977/2024
in Service Appeal No. 7505 OF 2021

Mr. Zia Jan --- Appellant
(Rtd:) Sub Engineer-O/O
XEN C&W Div: Charsadda

Versus

1. Secretary to Govt of Khyber Pakhtunkhwa
C&W Department Peshawar
2. Chief Engineer (Centre)
C&W Department, Peshawar --- Respondents
3. Chief Secretary Govt. of
Khyber Pakhtunkhwa

I N D E X

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1	Reply to the Execution Petition on behalf of Respondent No.1,2 & 3	-	1-2
2	Affidavit	-	3
3	Authority Letter	-	4
4	Minutes of the Department Promotion Committee Meeting held on 01/09/2015	I	5-6
5	Minutes of the Scrutiny Committee Meeting held on 03/07/2024	II	7

Deponent



Zeeshan,
Section Officer (Litigation)
C&W Department, Peshawar.

①

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR
EXECUTION PETITION NO. 977/24
IN SERVICE APPEAL NO. 7505 OF 2021

Mr. Zia Jan
(Rtd:) Sub Engineer O/O
XEN C&W Div: Charsadda

-- Appellant

VERSUS

1. Secretary to Govt. of Khyber Pakhtunkhwa,
C&W Department Peshawar
2. Chief Engineer (Centre)
C&W Peshawar
3. Chief Secretary Govt. of
Khyber Pakhtunkhwa

Secretary to Govt. of Khyber Pakhtunkhwa
Peshawar

17541

Dated 01-11-24

-- Respondents


REPLY ON BEHALF OF RESPONDENTS NO. 1,2 & 3

Respectfully Sheweth


1. In this regard, it is clarified that C&W Department scheduled a Departmental Promotion Committee meeting on 01.09.2015 to discuss the promotion of Diploma Holder Sub Engineers, including the promotion case of petitioner. After threadbare discussion, the DPC deferred the promotion of the petitioner for the reason that his ACRs for the periods of 1980, 1983, 1991 to 1994, 1997 to 2000 & 04.07.2001 to 31.12.2001 were not countersigned (**Annex-I**). The aggrieved Sub Engineer filed service appeal before the Khyber Pakhtunkhwa Service Tribunal for consideration his proforma promotion to the post of Assistant Engineer w.e.f 13.10.2015. The Service Tribunal accepted his appeal on 18.04.2024.
2. Incorrect, as per procedure, the Judgment of the Khyber Pakhtunkhwa Service Tribunal dated 18.04.2024 forwarded to Law department with the request to place the same before the Scrutiny Committee of Law Department as to whether the case is fit for filing of CPLA in the Supreme Court of Pakistan against the said judgment dated 18.04.2024. After threadbare discussion, it was decided with consensus by the Scrutiny Committee that the subject case is fit for filing of Appeal / CPLA before the Supreme Court of Pakistan on the main ground that Para-VI and VII of the promotion policy of Khyber Pakhtunkhwa does not support the proforma promotion. (**Annex-II**). Accordingly, the Department filed CPLA / Appeal before the Supreme Court of Pakistan with the prayer that on acceptance of this petition, leave to appeal against the impugned judgment and order of the Khyber Pakhtunkhwa Services Tribunal Peshawar dated 18.04.2024 passed in service appeal No.7505/2021 may graciously be granted.
3. Incorrect, since the petitioner case is not covered under the rules, he has not been deprived of any fundamental or constitutional rights.

4. Incorrect, as explained in Para-3 above, the answering respondents have not violated any right of the appellant nor caused any malafide or discrimination in fact the Department followed rules / policy strictly in the cases of promotion/proforma promotion of Officers/Officials of the Department.

In view of the above, it is humbly prayed that the instant execution petition is not based on facts, may kindly be dismissed with cost.



(MUHAMMAD ISRAR)
SECRETARY TO
Govt of Khyber Pakhtunkhwa
C&W Department
(RESPONDENT No. 1&3)



(JAMSHID ALI KHAN)
CHIEF ENGINEER (CENTRE)
Communication & Works Peshawar
(RESPONDENT No. 2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 977/2024
in Service Appeal No. 7505 OF 2021

Mr. Zia Jan --- Appellant
(Rtd:) Sub Engineer O/O
XEN C&W Div: Charsadda

Versus

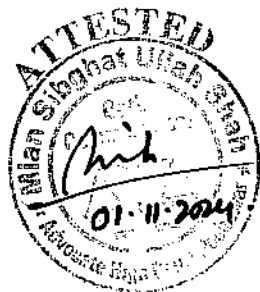
- 1. Secretary to Govt of Khyber Pakhtunkhwa
C&W Department Peshawar
- 2. Chief Engineer (Centre)
C&W Department, Peshawar --- Respondents
- 3. Chief Secretary Govt. of
Khyber Pakhtunkhwa

AFFIDAVIT

I, Muhammad Israr, Secretary to Govt of Khyber Pakhtunkhwa, C&W Department, Peshawar hereby affirm and declare that all the contents of the reply to the Execution Petition are correct to the best of my knowledge and belief and nothing has been concealed.

It is further stated on oath that in this appeal, the answering respondent neither has been placed ex-party nor their defense has been struck off.

Deponent




(Handwritten signature)
 MUHAMMAD ISRAR
 SECRETARY
 to Govt of Khyber Pakhtunkhwa
 C&W Peshawar.
 (Respondent No.1 & 3)



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

AUTHORITY LETTER

Mr. Zeeshan, Section Officer (Litigation), C&W Peshawar having CNIC 17301-2418439-1 is hereby authorized to file reply to the Execution Petition in case titled "Execution Petition No. 977 of 2024 in Service Appeal No. 7505/2021 "Titled Zia Jan Vs Communication & Works Department" on behalf of Secretary C&W Department.


MUHAMMAD ISRAR
SECRETARY
to Govt of Khyber Pakhtunkhwa
C&W Peshawar.
(Respondent No.1 & 3)

MINUTES OF DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 01.09.2015 AT 10:00 A.M UNDER THE CHAIRMANSHIP OF SECRETARY COMMUNICATION & WORKS DEPARTMENT

Meeting of the Departmental Promotion Committee of the C&W Department was held on 01.09.2015 at 10:00 A.M under the Chairmanship of Secretary C&W in the committee room of C&W Department. The following attended the meeting:

1. Engr. Muhammad Asaf
Secretary to Government of
Khyber Pakhtunkhwa
C&W Department Peshawar --- In chair
2. Engr. Fazli Kabir
Chief Engineer (Centre)
C&W Peshawar --- Member
3. Mr. Wazir Muhammad Afgar
Section Officer
Finance Department --- Member
4. Mr. Kashif Iqbal Jilani
Section Officer
Establishment Department --- Member
5. Mr. Usman Jan
Section Officer (Estb)
C&W Department --- Secretary-cum-Member

2. The meeting started with recitation of Holy Quran and the chair welcomed all the participants. The following two items were discussed in the meeting:

item-I: Promotion of Diploma Holder Sub Engineers to the post of Assistant Engineer/SDO (B-17) in the C&W Department

The promotion case of Diploma Holder Sub Engineers to the post of Assistant Engineer/SDO (BS-17) was considered against six clear vacancies on regular basis and Departmental Promotion Committee considered the officials included in the panel in order of their seniority/fitness and made the following recommendations:-

1	Muhammad Zubair-I	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
2	Zia Jan	Deferred, as his ACRs for the periods of 01.01.1980 to 09.12.1980, 20.03.1983 to 20.12.1989, 01.01.1991 to 31.12.1994, 01.01.1997 to 30.04.1998, 01.01.1999 to 31.12.2000 and 04.07.2001 to 31.12.2001 are not countersigned.
3	Faiz Muhammad Faiz	Deferred due to pending inquiry
4	Mian Muzakkar Shah	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
5	Zahir-ur-Rehman	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
6	Ghulam Habib	Deferred as countersigning officer has recorded the remarks i.e. "General reputation is not good" on his ACRs for the periods 01.01.2008 to 31.05.2008, 12.06.2008 to 31.12.2008, 01.01.2009 to 11.05.2009, 12.05.2009 to 31.12.2009, besides clarification the position of his ACRs i.e. "period less than 03 months"

Attested
Advocate-in-Record
Supreme Court of Pakistan
Govt. of Khyber Pakhtunkhwa
Peshawar

Attested
[Signature]

6
0

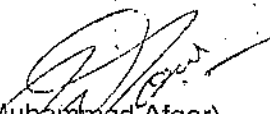
42

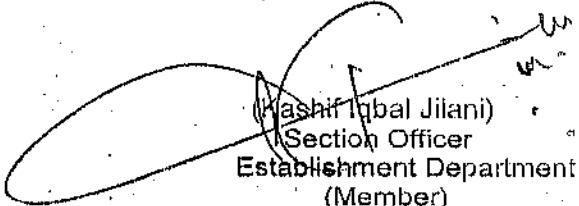
Item-II: PROMOTION OF DIRECT GRADUATE SUB ENGINEERS (BS-11) TO THE POST OF ASSISTANT ENGINEER/SDO (BS-17) ON REGULAR BASIS IN THE C&W DEPARTMENT

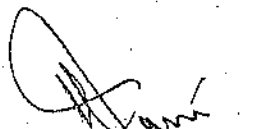
The promotion case of Direct Graduate Sub Engineers to the post of Assistant Engineer/SDO (BS-17) was considered against one clear vacancy on regular basis and Departmental Promotion Committee considered the officials included in the panel in order of their seniority/fitness and made the following recommendations:-

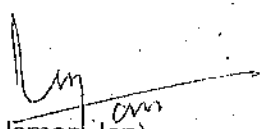
1	Sher Bahadar	Recommended for promotion to the post of Assistant Engineer/SDO (BS-17) on regular basis. He will be on probation for a period of one year.
---	--------------	---

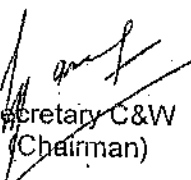
3. The meeting ended with mutual vote of thanks.



(Wazir Muhammad Afgar)
Section Officer
Finance Department
(Member)

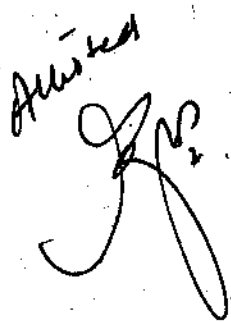

(Hashif Iqbal Jilani)
Section Officer
Establishment Department
(Member)


(Engr. Fazli Kabir)
Chief Engineer (Centre)
(Member)


(Usman Jan)
Section Officer (Estb) C&WD
(Secretary-cum Member)


Secretary C&W
(Chairman)


Advocate-on-Record
Supreme Court of Pakistan
Govt. of Khyber Pakhtunkhwa
Peshawar



~~Annex-11~~

(7)

ASCA

**GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT**

(Agenda Item No. 11)

No. SOL/Law/9-26(A)/C&W/2024
Dated Peshawar the 03-07-2024

10386-89

4060
9/7/2024

To

- 1 The Advocate General,
Khyber Pakhtunkhwa, Peshawar.
- 2 The Secretary to Govt. of Khyber Pakhtunkhwa,
Communication & Works Department.

Subject: SERVICE APPEAL NO. 7505/2021 ZIA JAN VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY COMMUNICATION & WORKS DEPARTMENT AND OTHERS

I am directed to refer to Govt. of Khyber Pakhtunkhwa Communication & Works Department letter No.SO(Lit)/C&W/3-464/2022, dated: 27.06.2024 on the subject noted above and to state that a meeting of the Scrutiny Committee has been held on 03-07-2024 under the Chairmanship of Secretary Law Department in order to determine the fitness of the subject case for filing of Appeal/CPLA before the Supreme Court of Pakistan.

That the appellant filed the subject service appeal with the prayer that the order dated 15-02-2018 may be set-aside and the appellant may be granted proforma promotion as Assistant Engineer/SDO.(BPS-17) w.e.f 13-10-2015 with all back benefits. The Khyber Pakhtunkhwa Service Tribunal vide order dated 18-04-2024 accepted the subject service appeal as prayed for.

After a threadbare discussion on the subject case particularly hearing the stance of Administrative Department, it was decided with consensus by the Scrutiny Committee that the subject case is a **Fit** case for filing of Appeal/CPLA before the Supreme Court of Pakistan on the following main grounds amongst others:-

Grounds:-

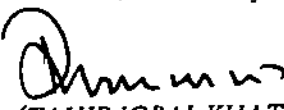
That Para-VI and VII of the Promotion Policy of Khyber Pakhtunkhwa does not support the proforma promotion.

The details regarding limitation of the case are as under:-

Date of decision	18-04-2024
Date of application for obtaining attested copies of the judgment	24-04-2024
Date of preparation of copies of the judgment by the issuing copying branch	14-06-2024
Date of delivery of the attested copies of judgment by the issuing copying branch	26-06-2024
Expected date on which limitation period will expire	05-08-2024

In view of the foregoing, the Administrative Department is advised to approach the office of Advocate General, Khyber Pakhtunkhwa through a well conversant departmental representative alongwith complete record of the case for doing the needful forthwith, please.

Yours faithfully,



(TAHIR IQBAL KHATTAK)
SOLICITOR
LAW DEPARTMENT

Endst: No & Date Even.

Copy forwarded to the.

2. PS to Secretary Law Department.

SOLICITOR


9/7/24
S/A