


FORM OF ORDER SHEET

Court of _____

Review Petition No. 1382/2024

No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15/11/2024	<p>The Review Petition in appeal no. 7802/2021 resubmitted today by Uzma Syed Advocate. It is fixed for hearing before Division Bench at Peshawar on 21.11.2024. Original file be requisitioned. Parcha Peshi is given to the counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

The review petition of Mr. Hassan Taj, submitted today on 30.10.2024 by Syed Noman Ali Bukhari, Advocate, is incomplete for the following reasons and is being returned to the counsel for the petitioner for completion and resubmission within 15 days:

1. An attested copy of the judgment is not attached to the petition.
2. The review petition is filed under Section 7-A of the Khyber Pakhtunkhwa Service Tribunal Act, 1974; however the Act does not contain for 7-A. If such a provision exists, attach the authentic copy of the same with the petition.
3. The annexures to the petition are unattested.
4. Petition has not been flagged/marked with annexures marks.
5. Copies/sets for second Member and respondents are not attach with the appeal.

No. 10/10 /Inst./2024/KPST,

Dt. 31/10 /2024.

Syed Noman Ali Bukharin Adv.,
High Court Peshawar.

Amatilloh
ADDITIONAL REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Sir,

objection removed & files re-submitted.

7/10
15/11/2024

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

REVIEW PETITION NO: 1382/2024

IN

SERVICE APPEAL NO. 7802/2021

Hassan Taj

V/S

Govt Of KP

INDEX

S.NO.	Documents	Annexure	Page No.
1.	Memo of appeal	---	01-07
2.	Condonation of delay	---	08
3.	Copy of Final Seniority List	---A---	09-12
4.	Copy of Retirement Notification	---B---	13
5.	Copy of Affidavit	---C---	14-15
6.	Copy of seniority list BS-20	---D---	16
7.	Copy of Rules	---E---	17-18
8.	Copy of working paper	---F---	19-24
9.	Copy of addl: charge order	---G---	25
10.	Copy of departmental appeal	---H---	26-27
11.	Copy of letter	---I---	28-29
12.	Copy of tribunal Judgment	---J---	30-32
13.	Copy of working paper	---K---	33-38
14.	Copy of affidavit	---L---	34
15.	Copy of pension papers	---M---	35-37
16.	Copy of tribunal judgment	---N---	38-42
17.	Copy of supreme court judgment	---O---	43-46
18.	Vakalat nama	---	47

Hassan Taj
PETITIONER
Hassan Taj

THROUGH

Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

Uzma Syed
(UZMA SYED)
ADVOCATE, HIGH COURT.

①

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

REVIEW PETITION NO: 1382/2024

IN

SERVICE APPEAL NO. 7802/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 17422

Dated 30-10-24

Hassan Taj, Ex-District Director (BPS-19),
District Director Agriculture (Extension) Nowshera,
Khyber Pakhtunkhwa.

(PETITIONER)

VERSUS

1. The Chief Secretary, Civil Secretariat Peshawar, Government of Khyber Pakhtunkhwa.
2. The Secretary Agriculture, Livestock, Fisheries & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director General, Agriculture, Department, Extension Wing, Khyber Pakhtunkhwa, Peshawar

(Respondents)

**REVIEW PETITION UNDER SECTION 7-A KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL, ACT, 1974
WITH ALL ENABLING LAWS FOR REVIEWING
THE JUDGMENT DATED 30/09/2024 IN SERVICE
APPEAL NO: 7802/2021.**

PRAYER:

**THAT ON THE ACCEPTANCE OF THIS REVIEW PETITION,
THAT THE JUDGMENT PASSED IN SERVICE APPEAL NO
7802/2021 MAY BE REVIEWED BY RESTORING THE
SERVICE APPEAL AND THE RESPONDENTS MAY BE
DIRECTED TO CONSIDER THE PETITIONER FOR
PROFORMA PROMOTION FROM BPS-19 TO BPS-20 FROM
HIS DUE DATE i.e 24.04.2020 WITH ALL BACK AND
CONSEQUENTIAL BENEFITS/ TREATED IN SAME**

②

**MANNER "AS" PER JUDGMENT DATED 09/05/2023
DELIVERED IN SERVICE APPEAL NO: 3083/2021 BEING ON
SIMILAR FOOTING. ANY OTHER REMEDY WHICH THIS
AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE
THAT MAY ALSO BE AWARDED IN FAVOUR OF THE
PETITIONER.**

RESPECTFULLY SHEWETH:

FACTS:

1. That the petitioner was appointed in Agriculture Deptt, in BS -17 in the year 1983. That the petitioner had throughout good service record and had performed his duties up to the entire satisfaction of his superiors.
2. That the petitioner had his promotions in accordance to his seniority in the department and lastly, he was promoted to the post District Director Agriculture (Extension) Nowshera (BPS-19) on 24/06/2013 which is evident from the seniority list annexed as annexure-A.
3. That on 02.11.2020 a Final Seniority List of BS-19 officers was notified in which the petitioner was at serial no. 1. **(Copy of Final Seniority is attached as Annexure - "A")**.
4. That one (01) post of Principal Agriculture Services Academy (BPS-20) got vacant due to the retirement of Mr. Fazal Mabood on 24.04.2020 and he also submitted affidavits on Judicial Stamp Papers that they opt for full retirement/pensionary benefits on attaining the age of superannuation (60 yrs) and that they will not claim any right to continue their services in case of any benefit accruing from the decision of the Supreme Court of Pakistan if decided in favour of the provincial government in CPLA against the decision of the Peshawar High Court in Writ no. 5673-P/2019 and other similar petitions clubbed together by the Peshawar High Court, Peshawar. One of the post of DG, Agriculture Extension Wing KP Peshawar (BS-20) became vacant on 28.01.2021 on retirement of Muhammad Nasim which is evident from the seniority list of BS-20. **(Copy of Retirement Notification & Affidavits of Mr. Fazal Mabood and seniority list of BS-20 are attached as Annexure - "B", "C" & "D")**.
5. That the petitioner was eligible according to the rule and the post of BS-20 was also lying vacant, therefore, requested for promotion to the

3

Post of BS-20. On which working paper was prepare By the DG and send to Agriculture Secretary for conducting PSB, on 04.11.2020. on which correspondence was made but at last the same was returned with some observations on 09/02/2020. (Copy of rules and working papers are attached as Annexure - "E" & "F").

6. That thereafter, additional charge of the post of BS-20 Agriculture Services Academy, handed over to the petitioner vide order dated 11.02.2021. (Copy of order is attached as annexure-'G').
7. That the petitioner before his retirement on 25.02.2021 filed departmental appeal which is forwarded on 01.03.2021 requesting the department to convene the departmental promotion meeting so that the petitioner could be promoted from BPS-19 to BPS-20 before his retirement on humanitarian ground. But in letter dated 12.04.2021 regards working paper wherein section officers stated that the name of Hassan Taj may be deleted from the Panel of Promotion due to retired from service on 31.03.2021 which is against the law and rules. (Copy of Departmental Appeal and letter are attached as Annexure - "H" & "I").
8. That thereafter, the petitioner filed Service Appeal. The Service Appeal of the petitioner was heard on 30.09.2024. The same was dismissed , the petitioner feeling filling this review petition on the following grounds amongst others. Copy of judgment is attached as annexure-J.

GROUND:

- A) That as the judgment under review, to the extent of petitioner, is the outcome of non-reading of actual evidence, therefore, the same can be reviewed legally for which this petition is well in time.
- B) That thereafter, the petitioner filed Service Appeal. The Service Appeal of the petitioner was heard on 30.09.2024. The same was dismissed as that no vacancy was existed at the time of retirement of petitioner, which was wrong Because, the proper working papers were submitted before the retirement of petitioner and which was duly forwarded. It is, pertinent to mentioned here that the working papers is only prepare when vacancy existed. So the clear vacancy existed. Copy of working paper is attached as annexure-K.
- C) That the next ground mentioned in the judgment is that the issue of amendment in Civil Servant Act regards the age. That is also not hold water for the reason that the employee retied properly submitted affidavit on oath that the decision of CPLA either way cannot claim

(M)

any benefits of the same. And also receive all pensionary benefits. It is pertinent to mentioned here that in same nature appeal no 3083/2021 the Hona'ble Service Tribunal accepted the appeal, so the petitioner also needs the same treatment under the law of good governance because why the petitioner suffered for the lapses/administrative or any issue of the department as mentioned in the Supreme Court judgment cited 2023 PLC Cs 336. Copy of affidavit, pension paper, Tribunal Judgment and SUPREME COURT judgment is attached as annexure- L, M, N & O.

D) That the petitioner was deprived from his right of promotion in an arbitrary manner which is the violation of Article 2, 4 and 25 of the Constitution of Pakistan.

E) That the Honourable Supreme Court of Pakistan has held in many cases that in absence of any stoppage of promotion order by the government/competent authority, the civil servant is entitled from the date of availability of post. Thus, the petitioner is entitled to proforma promotion with effect from his due date.

F) That the petitioner was not treated according to law, rules and norms of justice and thus, deprived from his due right of promotion.

G) That the petitioner seeks permission to advance other grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the petitioner may be accepted as prayed for.

Hassan Taj
PETITIONER
Hassan Taj

THROUGH

Syed Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

Uzma Syed
& *Uzma Syed*
(UZMA SYED)
ADVOCATE, High COURT.

5

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

REVIEW PETITION NO: _____/2024

IN

SERVICE APPEAL NO. 7802/2021

Hassan Taj

V/S

Govt Of KP

AFFIDAVIT

I, Hassan Taj, (Petitioner) do hereby affirm that the contents of this review petition are true and correct, and nothing has been concealed from this honorable Tribunal.

DEPONENT

Hassan Taj
Hassan Taj

ATTESTED





Annexure (1)

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK, FISHERIES & COOPERATIVE DEPARTMENT
Dated Peshawar the November 2nd, 2020**

Notification

No. SOE(AD)3(2)291/EW/2020: 688

In pursuance of Section,8(I) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with rule, 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, Final Seniority List of Officers in BS-19 of Agriculture Department (Extension Wing) as stood on 01.01.2020 is notified / circulated.

S. No.	Name of officer with academic qualifications	Date of birth and domicile	Date of 1 st entry into Govt. service.	Regular appointment / promotion to present post.			Present appointment
				Date	BPS	Method of recruitment	
1	Hassan Taj, M.Sc. (Hons) Agri.	1.4.1961 Swabi	23.8.1983 Agril. Officer	24.06.2013	19	By Promotion	District Director Agri., Nowshera
2	Muhammad Israr, M.Sc (Hons) Agri.	6.2.1960 Nowshera	23.8.1983 Agril. Officer	24.06.2013	19	By Promotion	Director Horticulture, HQ Office.
3	Obaidullah, M.Sc (Hons) Agri.	20.4.1961 Swat	26.12.1984 BS-16	24.05.2016	19	By Promotion	District Director Agri., Upper Dir.
4	Kamal Din, M.Sc (Hons) Agri.	14.5.1961 Mardan	26.12.1984 BS-16	24.05.2016	19	By Promotion	Vice Principal, ASA, Peshawar
5	Muhammad Khan, M.Sc (Hons) Agri.	16.4.1963 Mardan	26.12.1984 BS-16	24.05.2016	19	By Promotion	Director, Coordination, Planning Monitoring HQ
6	Rehmat-ud-Din, M.Sc (Hons) Agri.	10.11.1959 BajourAgy	26.12.1984 BS-16	24.05.2016	19	By Promotion	Director Agri. Extn. Merged Areas, Peshawar
7	Nisar Ahmad, M.Sc (Hons) Agri.	1.4.1961 Haripur	27.09.1984 BS-17	24.05.2016	19	By Promotion	District Director Agri., Haripur.

6922
6/11/20
E-1/M
11/1/20
645

ATTESTED

8.	Javed Maqbool Butt, M.Sc (Hons) Agri.	4.1.1952 Peshawar	22.1.1986 BS-17	24.05.2016	19	By Promotion	Director Marketing HQ
9.	S.Ghulam Murtaza Shah M.Sc (Hons) Agri.	9.3.1961 Abbottabad	25.01.1986 BS-17	24.05.2016	19	By Promotion	CPO Civil Sectt. Peshawar
10.	Wazir Ahmad, M.Sc (Hons) Agri.	2.2.1961 Mansehra	1.2.1986 BS-17	11.07.2016	19	By Promotion	District Director Agri. Battagram.
11.	Dr. Fayaz-ud-Din, Ph. D. (Agronomy)	8.4.1960 Charsadda	5.2.1986 BS-17	24.05.2016	19	By Promotion	Director MFSC HQ
12.	Ahmad Khan, M.Sc (Hons) Agri.	15.6.1960 Peshawar	6.2.1986 BS-17	24.05.2016	19	By Promotion	Director Seed HQ.
13.	Naveed Iqbal, M.Sc (Hons) Agri.	24.3.1961 Mansehra	6.2.1986 BS-17	24.05.2016	19	By Promotion	District Director Agri. Abbottabad.
14.	Zia Mohiyud Din, M.Sc (Hons) Agri.	15.11.1962 Peshawar	19.10.1986 BS-17	24.05.2016	19	By Promotion	Director Plant Protection HQ.
15.	Fazal Rahman, M.Sc (Hons) Agri.	10.2.1962 Mardan	20.10.1986 BS-17	24.05.2016	19	By Promotion	Director Training, ASA, Peshawar
16.	Zahirullah Khan, M.Sc (Hons) Agri.	1.4.1962 Karak	20.10.1986 BS-17	24.05.2016	19	By Promotion	District Director Agri. Kohat.
17.	Hizbullah, M.Sc (Hons) Agri.	1.10.62 DIKhan	22.10.1986 BS-17	11.07.2016	19	By promotion	District Director Agri. DIKhan
18.	Muhammad Naeem, M.Sc (Hons) Agri.	25.12.62 Mardan	26.10.1986	23.05.2018	19	By promotion	DDA, Chitral.
19.	Aurangzeb, M.Sc. (Hons) Agri.	01.10.1960 Mansehra	14.05.1987	14.04.2017	19	By promotion	District Director Agri. Mansehra.
20.	Muhammad Tahir, M.Sc (Hons) Agri.	15.5.64 Abbottabad	14.05.1987 BS-17	11.07.2016	19	By promotion	District Director Agri. Kohistan
21.	Murad Ali M.Sc. (Hons) Agri.	15.02.1962 Buner	23.07.1987	20.11.2017	19	By promotion	District Director Agri. Buner.
22.	Abdul Qayum M.Sc. (Hons) Agri.	01.09.1965 Moh. Agy	16.05.1989	20.11.2017	19	By promotion	District Director Agri. Mardan.

ATTACHED

[Handwritten Signature]

23.	Muhammad Ismail, M.Sc (Hons) Agri.	18.3.63 BajourAgy	21.04.1987	23.05.2018	19	By promotion	DDA, Hangu.
24.	Masoodur Rehman, M.Sc (Hons) Agri.	1.4.65 Mansehra	16.05.1989	23.05.2018	19	By promotion	DDA, Tor Ghar.
25.	Muhammad Ghani M.Sc (Hons) Agri.	2.1.62 Karak	16.05.1989	23.05.2018	19	By promotion	DDA, Bannu
26.	Abdul Nasir M.Sc (Hons) Agri.	4.6.64 Charsadda	16.05.1989	23.05.2018	19	By promotion	DDA, Charsadda
27.	Abdul Qayum-II M.Sc (Hons) Agri.	12.9.63 Lakki	16.05.1989	23.05.2018	19	By promotion	DDA, Lakki Marwat.
28.	SaeedAkhtar M.Sc (Hons) Agri.	11.5.61 Karak	16.05.1989	23.05.2018	19	By promotion	DDA, Karak.
29.	Abid Kamal, M.Sc (Hons) Agri.	18.1.62 Swat	16.10.1989	23.05.2018	19	By promotion	Director Field Operation HQ.
30.	Dr. Haji Muhammad, Ph.D. Agronomy.	10.1.66 Mkd Agency	16.10.1989	23.05.2018	19	By promotion	DDA, Malakand
31.	Akhtar Ali Shah, M.Sc (Hons) Agri.	22.10.61 Charsadda	16.10.1989 BS-17	01.10.2018	19	By promotion	Project Director Certification Project, Civil Secretariat at Peshawar.
32.	Jan Muhammad, M.Sc (Hons) Agri.	15.2.65 Swat	16.10.1989 BS-17	01.10.2018	19	By promotion	DDA, Shangla
33.	Dr. Inamullah, Ph.D Agronomy	26.2.65 Mkd Agency	16.10.1989 BS-17	04.01.2019	19	By promotion	DDA, Swabi
34.	Muhammad Tariq, M.Sc (Hons) Agri.	11.2.63 Abbottabad	16.10.1989 BS-17	04.01.2019	19	By promotion	DDA, Tank.

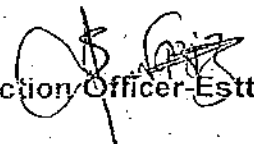
Certified that that Seniority List is circulated, undisputed & Final.

Sd/-
Chief Secretary

dst. Of Even No. & Date:

Copy forwarded to the:

- i. Secretary to Governor of Khyber Pakhtunkhwa.
- ii. Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
- iii. Director General Agriculture (Extension) Khyber Pakhtunkhwa, Peshawar.
- iv. P.S to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- v. P.S to Secretary Establishment Khyber Pakhtunkhwa, Peshawar.
- vi. P.S to Secretary Agriculture, Livestock, Fisheries & Cooperative Department Khyber Pakhtunkhwa, Peshawar.
- vii. Officers Concerned.
- viii. Manager Government Printing Press, Peshawar.


Section Officer-Estt

ATTESTED



AGRICULTURE (EXTENSION) KHYBER
 GOVERNMENT OF KHYBER PAKHTUNKHWA
 AGRICULTURE LIVESTOCK FISHERIES &
 COOPERATIVE DEPARTMENT

B
 13

Dated the June 18th, 2020

NOTIFICATION

NO. SOE(AD)21-183/84/EW: In continuation of this Department's Notification of even No. dated 24.04.2020, sanction is hereby accorded to the grant of leave encashment of 365 days pay in lieu of LPR w.e.f 26.04.2019 to 24.04.2020 in respect of Mr. Fazal Mabood, Principal Agriculture Services Academy (BPS-20) under Rule 20 of Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981, subject of CPLA/ Appeal of the Provincial Government against the judgement of Peshawar High Court dated 19.02.2020 in WP No. 5673-P/2019 and any order contrary as and when issued by the apex Court of Pakistan.

Sd/-
 SECRETARY AGRICULTURE

Endst. of even No. & Date.

Copy forwarded for information and necessary action to:

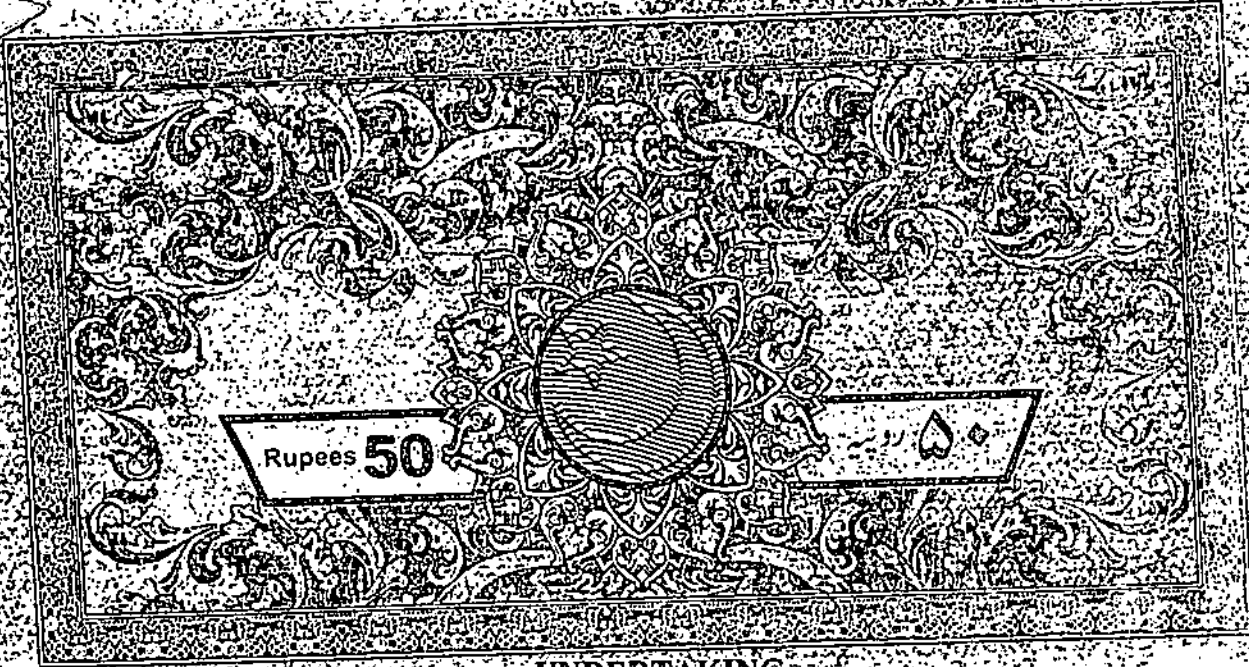
1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Registrar, Peshawar High Court, Peshawar.
3. The Director General, Agriculture (Extension), Khyber Pakhtunkhwa Peshawar.
4. P.S to Secretary Establishment Department, Government of Khyber Pakhtunkhwa, Peshawar.
5. P.S to Secretary Agriculture, Livestock, Fisheries & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
6. P.A to Deputy Secretary (Admn) Agriculture, Livestock, Fisheries & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
7. Officer concerned.
8. Master File.

Handwritten notes and signatures: "D.C.", "23/6/2020", and other illegible scribbles.

(AHMAD HUSSAIN)
 SECTION OFFICER-ESTT

Handwritten signature and date: "23/6/2020"

ATTESTED



UNDERTAKING

I, Fazli Mabood S/O Ghulam Said hereby opt for full retirement / pensionary benefits on attaching the age of superannuation (60) years. I shall NOT claim any benefit of Supreme Court decision if decided in favour of provincial government in CPLA against decision of Peshawar High Court in writ No.5673-P/2019 and other similar petitions clubbed together by Peshawar High Court Peshawar.

Name: Fazli Mabood

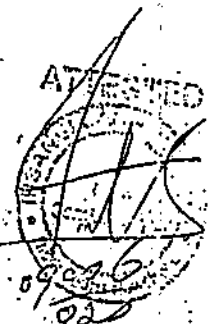
Signature: *Fazli Mabood*

09/06/2020

Father Name: Ghulam Said

Designation: Principal Agriculture Services Academy
Directorate General Agriculture
(Extension) Khyber Pakhtunkhwa Peshawar

ATTESTED





**GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK FISHERIES &
COOPERATIVE DEPARTMENT**

No. SOE(AD)21-188/84/EW
Dated Peshawar, the July 3rd, 2020

15

To: **The Accountant General,
Khyber Pakhtunkhwa, Peshawar.**

**SUBJECT: - PENSION PAPERS IN RESPECT OF MR. FAZAL MABOOD,
PRINCIPAL, AGRICULTURE SERVICES ACADEMY, PESHAWAR.**

I am directed to enclose herewith 2 sets of pension papers (one in original & one in duplicate) duly signed by the Secretary Agriculture (Competent Authority) alongwith relevant documents in respect Mr. Fazal Mabood, Principal Agriculture Services Academy (BS-20), for further necessary action at your end, please.

Encls. As Above.

(Signature)
(AHMAD HUSSAIN)
SECTION OFFICER-ESTT

Endst. of Even No. & Date.

Copy forwarded to the:

1. The Director General, Agriculture (Extension), Khyber Pakhtunkhwa, Peshawar w/r to his letter No. 12/287/Estt/9104/DG dated 05/05/2020
2. P.S to Secretary Agriculture, Livestock, Fisheries & Cooperative Department Khyber Pakhtunkhwa, Peshawar.
3. P.A to Deputy Secretary (Admn) Agriculture, Livestock, Fisheries & Cooperative Department Khyber Pakhtunkhwa, Peshawar.
4. Master File.

S/E
02/07/20
3960
8/7/20
(Signature)
SECTION OFFICER-ESTT

B-1 M
(Signature)
08/7/2020

noted
(Signature)
08/7/2020

ATTESTED

18/133
16
9
ATTESTED

AMANUCCI
GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK FISHERIES &
COOPERATIVE DEPARTMENT

Dated Peshawar, the June 5th, 2020

Notification: In pursuance of Section-8(1) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989, final Seniority list of officers in BPS-20 of Agriculture Department (Extension wing) as stood on 01.01.2020 is notified / circulated:

Sl#	Name of Officer/ Official with academic qualification	Date of Birth and domicile	Date of 1st entry into Govt. service	Regular appointment/ promotion to present post.			Present appointment with date.
				Date	BS	Method of Recruitment	
1.	2.	3.	4.	5.	6.	7.	8.
1.	Mr. Muhammad Nasim, M.Sc. (Hons) Agri:	28.01.1961 Mansehra	23.08.1983 Agri: Officer	26.12.2017	20	By Promotion	Director General, Agriculture Extension Khyber Pakhtunkhwa, Peshawar
2.	Mr. Fazli Mabood, M.Sc. (Hons) Agri:	25.04.1960 Nowshera	23.08.1983 Agri: Officer	20.11.2018	20	By Promotion	Principal Agriculture Services Academy, Peshawar

Certified that the seniority list is circulated/undisputed and final.

3453
11/6/20

--Sd--
CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

Endst. Of even No. & Date.

Copy forwarded for information and necessary action to:-

1. The Director General, Agriculture (Extension) Khyber Pakhtunkhwa, Peshawar.

P.T.O

E-1 Mr. ...
11/5/20



GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Annex-
E
17

Dated Peshawar, the April 20, 2012

NOTIFICATION

No.SOE(AD)2(2)429/2011.- In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all notifications issued in this behalf to the extent of Agriculture Extension Wing, the Agriculture, Livestock and Cooperation Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in column 3 to 5 of the appendix to this Notification, which shall be applicable to the posts mentioned in column 2 of the said Appendix in the Directorate of Extension Wing of the Agriculture Department.

APPENDIX

PART-I

PROFESSIONAL STAFF

S. No	Nomenclature of post.	Qualification for appointment by initial recruitment.	Age limit.	Method of recruitment.
1	2	3	4	5
1	Director General, Agriculture (Extension) Khyber Pakhtunkhwa / Director General Agriculture (Extension) FATA / Principal, Agricultural Training Institute, Peshawar (BPS-20).			By promotion, on the basis of seniority-cum-fitness, from amongst the Officers (BPS-19) of the Agriculture Extension Wing having M.Sc Agriculture or B.Sc Degree in Agriculture from a recognized Agriculture University.
2	Directors Field Operation / Plant Protection / Horticulture / Agriculture Marketing / Coordination, Planning and Monitoring / Model Farm Services Centre / Seed / Training and Training Coordinator Agriculture Training Institute / Director Agriculture / District Directors Agriculture / Vice Principal, Agriculture Training Institute and Executive District Officer Agriculture (BPS-19).			By promotion, on the basis of seniority-cum-fitness, from amongst the Officers (BPS-18) of the Agriculture Extension Wing with seven years service in BS-18 or 12 years service in BS-17 and above having M.Sc Agriculture or B.Sc Degree in Agriculture from a recognized Agriculture University.
3	Deputy. Directors (Planning, Monitoring and Evaluation) / Plant Protection / Horticulture / Agriculture Marketing / Agriculture (Information) / Coordination and Publication / Senior Instructors, Agriculture Training Institute /subject Matter Specialists Plant Protection/Agronomy and Extension / Horticulture / Plant Protection Officers / Deputy, Director Farms / Agency Officers Agriculture and Horticulture Specialists (BPS-18).			By promotion, on the basis of seniority cum fitness, from amongst the BS-17 Agricultural officers / Instructor/Agriculture Officer Public Relation and Publication of Agriculture Extension Wing with five years' service as such, having M.Sc Agriculture or B.Sc Degree in Agriculture from a recognized Agriculture University.

ANNEXED

[Signature]

18

42	Senior Clerks (BPS-9).	Documentary Editing and Commercial.		By promotion, on the basis of seniority-cum-fitness, from amongst Junior Clerks / Time Keepers / Store Keepers and Depot Keepers with two years service as such.
43	Senior Auditors (BPS-8).			By promotion, on the basis of seniority-cum-fitness, from amongst Junior Auditors with two years service as such.
44	Junior Clerks (BSPS-7).	(a). Secondary School Certificate or an equivalent qualification from a recognized Board; and (b). a speed of thirty words per minute in typing.	18 to 28 years.	(a) Thirty-three percent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of all Class-IV posts provided that they possess secondary school certificate with two years service as such; and (b) Sixty-seven percent by initial recruitment.
45	Junior Auditors (BPS-6).	Secondary School Certificate or an equivalent qualification from a recognized Board.	18 to 28 years.	By initial recruitment.
46	Store Keepers/Time Keepers and Depot keepers (BPS-5).	Secondary School Certificate or an equivalent qualification from a recognized Board.	18 to 28 years.	By initial recruitment.
47	Calligraphers (BPS-5).	Three years experience in the art of calligraphy.	18 to 32 years.	By initial recruitment.
48	Dairies (BPS-2).	Middle Pass.	18 to 45 years.	By promotion, from amongst Naib Qasids who are middle passed.
49	Naib Qasids (BPS-1).	Preferably literate.	18 to 45 years.	By initial recruitment.
50	Chowkidars and Security Guards (BPS-1).	Having experienced in watch and ward duty.	18 to 45 years.	By initial recruitment.

SECRETARY TO GOVERNMENT OF
THE KHYBER PAKHTUNKHWA,
AGRI.: LIVESTOCK AND COOP. DEPARTMENT.

Endst. of even No. & Date.

Copy forwarded for information and necessary action to :-

1. The Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa Finance Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa Law Department w/r to his letter No.LD/REG/1(6)76/Vol-II dated 06.01.2012.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The All District Coordination Officers, Khyber Pakhtunkhwa.
6. The All Executive District Officers (Agriculture), Khyber Pakhtunkhwa.
7. The Secretary to Governor, Khyber Pakhtunkhwa.
8. The PSO to Chief Minister, Khyber Pakhtunkhwa.
9. The PSO to Chief Secretary, Khyber Pakhtunkhwa.
10. The PS to Additional Chief Secretary, FATA, Warsak Road, Peshawar.
11. The PS to Minister for Agriculture, Khyber Pakhtunkhwa.
12. The Director General, Agricultural (Extension), Khyber Pakhtunkhwa, Peshawar.
13. The Manager Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar. He is requested that printed (preferable gazette) copies of the notification as and when published may be furnished to this Department, E&A and Law Department along with details of gazette in which is published.
14. PS to Secretary Agriculture.

379
(MUHAMMAD ZAHID)
SECTION OFFICER-ESTT.

Annexure (F)

(19)

DIRECTORATE GENERAL AGRICULTURE (EXTENSION)
KHYBER PAKHTUNKHWA, PESHAWAR

Ph.No.091-9224226

Fax No.091-9224226

No.11/83-KC/Estt/ 29 512 /DGA(E)

Dated Peshawar: the 4/11/2020

To:

✓ The Secretary to Govt. of Khyber Pakhtunkhwa,
Agriculture, Livestock and Cooperative
Department, Peshawar.

Subject: WORKING PAPER FOR PROMOTION OF BS-19 OFFICERS TO BS-20 POST O
AGRICULTURE EXTENSION DEPARTMENT

Memo:

One set of working papers alongwith relevant documents of BS-19 officer
for promotion to BS-20 posts is enclosed herewith for information and necessary action.

Encl: As Above.


DIRECTOR GENERAL

ATTESTED

20

DIRECTORATE GENERAL AGRICULTURE (EXTENSION)
KHYBER PAKHTUNKHWA, PESHAWAR

Ph.No.091-9224226

Fax No.091-9224225

No.11/83-KC/Estt/24871 /DGA(E)

Dated Peshawar: the 1/12/2020

To:


The Secretary to Govt. of Khyber Pakhtunkhwa,
Agriculture, Livestock and Cooperative
Department, Peshawar.

Subject: WORKING PAPER FOR PROMOTION OF BS-19 OFFICERS TO BS-20 POST
OF AGRICULTURE.EXTENSION DEPARTMENT

Memo:

Enclosed please find herewith one (01) set (in original) of working papers
alongwith relevant documents of BS-19 officers for promotion to BS-20 post for
information and necessary action.

Encl: As Above.


DIRECTOR GENERAL

21

DIRECTORATE GENERAL AGRICULTURE (EXTENSION)
KHYBER PAKHTUNKHWA, PESHAWAR

Ph.No.091-9224226

Fax No.091-9224225

No.11/83-KC/Estt/ 965 /DGA(E)

Dated Peshawar: the 12/11/2020

To:

The Secretary to Govt. of Khyber Pakhtunkhwa,
Agriculture, Livestock and Cooperative
Department, Peshawar.

Subject: WORKING PAPER FOR PROMOTION OF BS-19 OFFICERS TO BS-20 POST
OF AGRICULTURE EXTENSION DEPARTMENT

Memo:

Enclosed please find herewith Seven (07) sets of working papers alongwith
relevat documents of BS-19 officers for promotion to BS-20 post for information and
necessary action.

Encl: As Above.


DIRECTOR GENERAL

ATTESTED

5/13 KC



22

GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE DEPARTMENT

NO.SOE(AD)V-7/2020/Ext/PSB Case 19-20
Dated Peshawar, the January 26th, 2021

To,

The Section Officer (PSB),
Establishment Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: **WORKING PAPER FOR PROMOTION OF BS-19 OFFICERS TO
BS-20 POST OF AGRICULTURE EXTENSION DEPARTMENT**

I am directed to refer to the subject noted above and to enclose herewith seven (07) sets of working papers for promotion of BS-19 officers to the post of BS-20 complete in all respect alongwith presentation (in soft form) for placing before Provincial Selection Board for consideration, please.

Encls. As Above.

SECTION OFFICER-ESTT:

Endst. Or even No. & Date.

Copy forwarded to:

1. The Director General, Agriculture Extension, Khyber Pakhtunkhwa, Peshawar.
2. P.S to Secretary Agriculture, Livestock, Fisheries & Cooperative Department Khyber Pakhtunkhwa, Peshawar.
3. P.A to Deputy Secretary (Admn) Agriculture, Livestock, Fisheries & Cooperative Department Khyber Pakhtunkhwa, Peshawar.
4. Master File

SECTION OFFICER-ESTT:

ATTACHED

23



GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE DEPARTMENT
✉ : Soeagric@gmail.com

No. SOE(AD) V-7/2020/Ext/PSB Case 19-20/170
Dated Peshawar, the February 10th, 2021

To:

The Director General,
Agriculture Extension,
Khyber Pakhtunkhwa, Peshawar.

SUBJECT: WORKING PAPER FOR PROMOTION OF BS-19 OFFICERS TO BS-20 OF AGRICULTURE EXTENSION DEPARTMENT.

I am directed to refer to your letter No.11/83-KC/Estt./24841/DGA(E) dated 01.12.2020 on the subject noted above and to enclose herewith a copy of letter No.SO(PSB)ED/1-6/2021/P-299 dated 09.02.2021 which is self-explanatory for information and further necessary action.

Working Papers are enclose herewith, please.

Encls. As Above.


SECTION OFFICER-ESTT:
AGRICULTURE DEPARTMENT

Endst. of Even. No. & Date.

Copy forwarded to: -

1. P.S to Secretary Agriculture, Livestock, Fisheries & Cooperative Department Khyber Pakhtunkhwa, Peshawar.
2. P.A to Deputy Secretary (Admn) Agriculture, Livestock, Fisheries & Cooperative Department Khyber Pakhtunkhwa, Peshawar.
3. Master File.


SECTION OFFICER-ESTT:
AGRICULTURE DEPARTMENT

ATTACHED

14

24

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

No. SO(PSB)ED/1-6/2021/P-299
Dated Peshawar, the February 09, 2021

To

The Secretary to the Govt. of Khyber Pakhtunkhwa,
Agriculture Livestock & Cooperative Department.

**SUBJECT: WORKING PAPER FOR PROMOTION OF BS-19 OFFICERS TO
BS-20 OF AGRICULTURE EXTENSION DEPARTMENT.**

Dear Sir,

I am directed to refer to Agriculture Department letter No. SOE(ADIV-7/2020/Ext/PSB Case 19-20, dated 26.01.2021 on the subject and to say that the case has been examined in Regulation Wing and observed that: -

- ✓ Budget copies for confirmation of sanctioned strength of the current financial year may be annexed alongwith the working paper.
- ✓ The post vacated due to conditional retirement against which the Board did not consider promotion.
- ✓ The name of officer presently working in BS-20 has not been annexed to the working paper.

✓ The working paper and other documents received with the letter quoted above are returned herewith in original for doing the needful.

Yours faithfully,

SECTION OFFICER (PSB)

Back As Above

LIST OF EVEN NO. & DATE

A copy is forwarded to the Section Officer (R-III), Establishment Department.

SECTION OFFICER (PSB)

ATTACHED



Annex - (G) (S)

GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Dated Peshawar the February, 11th 2021

NOTIFICATION

NO. SOE (AD)31(3)2/EW/2021/175 Consequent upon proceeding on retirement of Mr. Muhammad Nasim, Principal Agriculture Services Academy Peshawar with effect from 28/01/2021 (A.N) on attaining the age of superannuation, the Competent Authority is pleased to authorize Mr. Hassan Taj (BS-19), District Director Agriculture (Extension) Nowshera, to hold look after charge of the post of Principal (BS-20) Agriculture Services Academy Peshawar in addition to his own duties with immediate effect, till further orders.

2. He will also exercise all the financial as well as administrative powers vested in the post of Principal Agriculture Services Academy Peshawar, Khyber Pakhtunkhwa.

Sd/-
SECRETARY AGRICULTURE

Endst. of even No. & Date.

Copy forwarded for information and necessary action to :-

1. The Accountant General, Khyber Pakhtunkhwa
2. The Director General, Agriculture (Extension), Khyber Pakhtunkhwa, Peshawar.
3. Principal Agriculture Services Academy Peshawar
4. The District Accounts Officer Nowshera.
5. P.S to Minister for Agriculture, Livestock, Fisheries & Cooperatives Department, Khyber Pakhtunkhwa, Peshawar
6. P.S to Secretary Agriculture, Livestock, Fisheries & Cooperatives Department, Khyber Pakhtunkhwa, Peshawar.
7. P.A to Deputy Secretary (Admn) Agriculture, Livestock, Fisheries & Cooperatives Department, Khyber Pakhtunkhwa, Peshawar.
8. Officer concerned.
9. Master file.

[Signature]
SECTION OFFICER-ESTT:
AGRICULTURE DEPARTMENT

additional charge



Annexure

H
26

**DIRECTORATE GENERAL AGRICULTURE (EXTENSION) KHYBER
PAKHTUNKHWA, PESHAWAR**

Ph.No.091-9224226

Fax No.091-9224225

No.11/83-KC/Estt/ 5911 /DGA(E)

Dated Peshawar: the 01/3/2021

To:

The Section Officer (Estt)
Government of Khyber Pakhtunkhwa,
Agriculture, Livestock and Cooperative
Department, Peshawar.

[Signature] SOE
01/03/2021

Subject: **REQUEST FOR PROMOTION (BS-20) POST**

Memo:

Enclosed please find herewith request for promotion to BS-20 post in respect of Mr. Hassan Taj, District Director Agriculture, Nowshera for information and further necessary please.

Enc: as above.

[Signature]
DIRECTOR GENERAL *[Signature]*

ATTACHED

To

The Chief Secretary
Khyber Pakhtunkhwa, Peshawar

Through Proper Channel

Subject: REQUEST FOR PROMOTION TO BPS-20

R/Sir

With due reverence it is requested that the undersigned is serving in the department of Agriculture Extension as District Director Agriculture Nowshera in BPS-19. Subsequent upon the retirement of Mr. Fazal Maboob ex-principal, Agriculture Services Academy (BPS-20) with effect from 24-04-2020 on superannuation (60 years of age), I am entitled for promotion to BPS-20 being the senior most officer in BPS-19 (copy of Seniority list attached as annexure A).

It is to inform your goodself that the promotion case of the undersigned was sent to the Administrative department for placing before the Provincial Selection Board by the Director General Agriculture Extension Khyber Pakhtunkhwa vide letter No: 11/83-KC/Estt:/24841/DGA(E) dated 01-12-2020, however the same was returned with the remarks to wait till the decision of CPLA pending before the August Supreme Court of Pakistan.

Furthermore it is requested that Mr. Fazal Maboob ex-Principal ASA (BS-20) has already submitted an undertaking at the time of retirement wherein he has agreed that he would not avail the option for 63 years service if allowed in the above said CPLA by the August Supreme court of Pakistan (Copy of the undertaking is attached as Annexure B). Moreover he has already received full emoluments regarding his pensions and encashment of leave salary etc from the Government exchequer.

The undersigned is proceeding on retirement with effect from March 31st, 2021 on superannuation (60 Years of age). Therefore it is requested that my promotion case may please be considered on humanitarian grounds through Provincial Selection Board or on circulation order before 30-03-2021 so that I may be able to get my due right in time.

Hassan Taj
Hassan Taj
District Director Agriculture
Nowshera

27

9 copy.

Attest



Annexa (I) (29)
GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE DEPARTMENT
✉: Soeagric@gmail.com

No. SOE(AD)PSB/BS-19 to 20/2021/519
Dated Peshawar, the April 15th, 2021

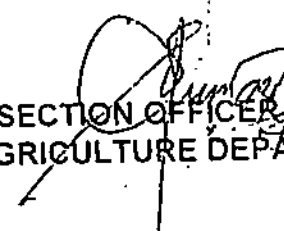
To,

Director General,
Agriculture Extension,
Khyber Pakhtunkhwa Peshawar.

SUBJECT: WORKING PAPER FOR PROMOTION OF BS-19 TO BS-20 POST.

I am directed to refer to your letter No.11/83-KC/Estt/5911/DGA (E) dated 01.03.2021 on the subject noted above and to enclose herewith letter No.SO (PSB) ED/1-6/2020/P-299 dated 12.04.2021 which is self-explanatory (alongwith working papers) for information & further necessary action please.

Encl. As Above:


SECTION OFFICER ESTT:
AGRICULTURE DEPARTMENT

Endst. No. & Date Even.

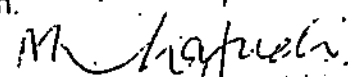
Copy Forwarded to the:

1. P.S to Secretary Agriculture, Livestock, Fisheries & Cooperative Department Khyber Pakhtunkhwa, Peshawar.
2. P.A to Deputy Secretary Agriculture, Livestock, Fisheries & Cooperative Department Khyber Pakhtunkhwa, Peshawar.
3. Master File


SECTION OFFICER ESTT:
AGRICULTURE DEPARTMENT

DIRECTORATE GENERAL AGRICULTURE (EXTENSION) KHYBER PAKHTUNKHWA, PESHAWAR
No 11/83/Estt/10052/DGA(E) Dated Peshawar, the 21/4/2021

Copy alongwith its enclosure is forwarded to Ex-District Director Agriculture, Nowshera Mr. Hassan Taj for information.


SUPERINTENDENT ESTT:
HQ, OFFICE

29



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

No. SO(PSB)ED/1-6/2020/P-299
Dated Peshawar, the April 12, 2021

To
The Secretary to the Govt. of Khyber Pakhtunkhwa,
Agriculture Livestock & Cooperative Department.

SUBJECT: WORKING PAPER FOR PROMOTION OF BS-19 TO BS-20 POST.

Dear Sir,

I am directed to refer to Agriculture Department letter No. SOE(AD)PSB/BS-19 to 20/2021/429, dated 29-03-2021 on the subject and to say that only one (01) post is lying vacant due to conditional retirement of Mr. Fazali Mabood, Principal Agriculture Training Institute Peshawar on 24.04.2020 which needs to be revised according to the pattern circulated vide this department letter No. SO(Policy)E&AD/1-13/2019 dated 30.03.2021. Moreover, the officer at Sr. No. 01 of the panel stands retired from service w.e.f. 31.03.2021, hence his name may be deleted from the panel as consideration of promotion of a retired officer is not covered under the policy.

2. The working paper and other documents received with the letter quoted above are returned herewith in original for doing the needful.

Yours faithfully,

[Signature] 12.4.2021
SECTION OFFICER (PSB)

Encl: As above.

ENDST. OF EVEN NO. & DATE.

A copy is forwarded to the Section Officer (R-III), Establishment Department.

SECTION OFFICER (PSB)

ATTESTED

[Signature]
[Signature]

537
13/04/2021

Service Appeal No. 7802/2021 titled "Hassan Taj Vs. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others", decided on 30.09.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
RASHIDA BANO ... MEMBER (Judicial)

Service Appeal No. 7802/2021

Date of presentation of appeal.....30.11.2021

Dates of Hearing.....30.09.2024

Date of Decision.....30.09.2024

**Hassan Taj, Ex-District Director (BPS-19), District Director
Agriculture (Extension) Nowshera Khyber Pakhtunkhwa.**
.....(*Appellant*)

Versus

1. **The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.**
2. **The Secretary Agriculture, Livestock, Fisheries & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.**
3. **The Director General Agriculture Department, Extension Wing, Khyber Pakhtunkhwa, Peshawar.**
4. **The Secretary Finance, Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Present:

Miss. Uzma Syed, Advocate.....For the appellant

Mr. Naseer Ud Din Shah, Assistant Advocate General.....For respondents

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 FOR DIRECTING THE RESPONDENT
DEPARTMENT TO CONSIDER THE
APPELLANT FOR PROFORMA/NOTIONAL
PROMOTION FROM BPS-19 TO BPS-20 AND
AGAINST NOT TAKING ACTION ON THE
DEPARTMENTAL APPEAL OF THE
APPELLANT TILL DATE.**

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Appellant's case in
brief, as per averment of appeal, is that appellant was serving in
the Agriculture Department and was retired as District Director

ATTESTED
MEMBER
Khyber Pakhtunkhwa
Service Tribunal
17-10-24

31

(BPS-19); that vacancy of BPS-20 was lying vacant due to retirement of one Fazal Mabood on 24.04.2020 and the appellant was at Serial No.1 of the seniority list of officers in BPS-19, as stood on 01.01.2020 and notified on 01.11.2020; that an officer at Serial No.4 of the seniority was given promotion to BPS-20 while the appellant was given additional charge in BPS-20 on 11.02.2021; that he filed departmental representation for promotion to BPS-20 on 25.02.2021 but the same was regretted on 12.04.2021 while the appellant had already retired on 31.03.2021, hence, the instant service appeal for notional promotion.

02. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

03. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondents.

04. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Assistant Advocate General controverted the same by supporting the impugned order(s).

05. In the present case, the appellant, who had served as District Director in the Agriculture Department and had retired at the BPS-19 level, asserted that he was denied promotion to BPS-20

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

despite being the senior-most officer on the seniority list as of 01 January 1, 2020. Following the retirement of an officer on April 24, 2020, a vacancy arose in BPS-20. The appellant contends that while an officer ranked fourth in seniority was promoted to this position, he was only granted an additional charge of BPS-20 on February 11, 2021. The appellant submitted a representation for promotion on February 25, 2021; however, that was regrettably declined on April 12, 2021, after his retirement on March 31, 2021. Consequently, the appellant approached this Tribunal for notional promotion to BPS-20 w.e.f 24.04.2020 by relying on the judgments of this Tribunal passed in Appeal Nos. 12.54/2016, 797/2018 and Appeal No.3083/2021 as well as judgment of the august Supreme Court of Pakistan dated 08.06.2021 passed in Civil Appeal No.40/2021 arguing that the denial of his rightful promotion was a violation of judgments of this Tribunal as well as the august Supreme Court of Pakistan.

06. Claim of the appellant that he ought to have been promoted on 24.04.2020, however, there was no vacant post and on which judgments the appellant has relied, the situation of those cases were different. The retirement order of Fazal Mabood was conditional because of the amendment in the Civil Servants Act, 1973 of the Provincial Government's retirement age limit vide order dated 12.04.2021; and the retirement of Fazal Mabood has also taken place after retirement of the appellant.

Service Appeal No.7802/2021 titled "Hussan Taj Vs. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others", decided on 30.09.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mrs. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.



07. In view of the above, the request of appellant cannot be considered and the appeal in hand stands dismissed with costs.

Consign.

08. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 30th day of September, 2024.

KALIM ARSHAD KHAN
Chairman

RASHIDA BANO
Member (Judicial)

Certified to be true copy
EXPLAINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Muazem Shah

Khyber Pakhtunkhwa Service Tribunal, Peshawar	
Application No. <u>163</u>	Date <u>17-10-24</u>
Name of Applicant <u>Awaraj</u>	
Number of Words/Pages <u>4-8</u>	
Copying Fee <u>20/-</u>	
Urgent/Ordinary <u>9/-</u>	
Total <u>25/-</u>	
Name & Sign of Counsel <u>Zcothman</u>	
Date of Court Appearance <u>17-10-24</u>	
Date of Delivery of Copy <u>17-10-24</u>	

(V) (33)

**DIRECTORATE GENERAL AGRICULTURE (EXTENSION) KHYBER,
PAKHTUNKHWA, PESHAWAR**

Ph.No.091-9224226

Fax No.091-9224225

No.11/83-KC/Estt/017-33/DGA(E)

Dated Peshawar: the 9/3/2021

To:

The Section Officer (Estt)
Government of Khyber Pakhtunkhwa,
Agriculture, Livestock and Cooperative
Department, Peshawar.

Received
Jmf
30/03/2021
A/c
1/3 zesho

Subject: **WORKING PAPER FOR PROMOTION OF BS-19 OFFICER TO BS-20 POST**
Memo:

Kindly refer to your office letter No.SOE(AD)V-7/2020/Ext/PSB Case 19-20/170 dated 10.02.2021, alongwith Seven sets (07) working paper for promotion of BS-19 to BS-20 post is hereby resubmitted after doing the needful.

It is submitted that budget copy of the sanction strength of BS-20 post for the current financial year 2020-21 is enclosed herewith alongwith working papers (Annexure-I) (02 copies).

The post Principal, Agriculture Services Academy, Peshawar already vacated by Mr. Fazli Mabood with the option to proceed on retirement from Government Service on attaining the age of 60 years on 24.04.2020. The ex-officer has submitted a certificate that if CPLA accepted by Supreme Court of Pakistan, the undersigned will not be agreed to continue the duties. (Annexure-V).

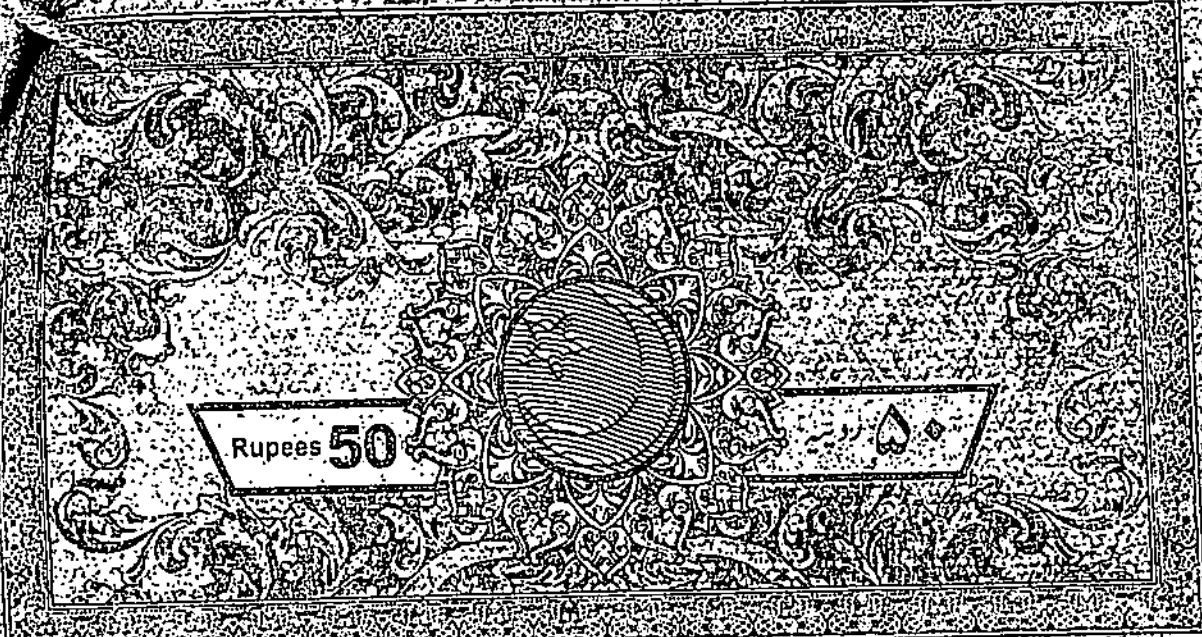
In this regard your good office has already issued Notification No.SOE(AD)3(3)3/2-EW/2021/175 dated 11.02.2021 in respect of Mr. Hassan Taj to hold the Look-after charge of the post of the Principal, Agriculture Services Academy, Peshawar (BS-20) (Annexure-VI).


DIRECTOR GENERAL

08578

(CPL)

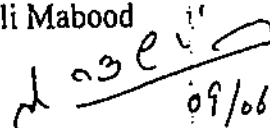
(34)



UNDERTAKING

I, Fazli Mabood S/O Ghulam Said hereby opt for full retirement / pensionary benefits on attaching the age of superannuation (60) years. I shall NOT claim any benefit of Supreme Court decision if decided in favour of provincial government in CPLA against decision of Peshawar High Court in writ No.5673-P/2019 and other similar petitions clubbed together by Peshawar High Court Peshawar.

Name: Fazli Mabood

Signature:  09/06/2020

Father Name: Ghulam Said

Designation: Principal Agriculture Services Academy
Directorate General Agriculture
(Extension) Khyber Pakhtunkhwa Peshawar

ATTESTED

ATTESTED


Accountant General Khyber Pakhtunkhwa, Peshawar
 Monthly Pension Statement (September-2020)



NTN:1082689-7

Personal information of pensioner FAZLI MAHOOD d/w/s of GHULAM SAID
 Personnel Number: 00016260 CNIC: 1720122563525
 Date of Birth: 25.04.1960 Served as PRINCIPAL ATI (BPS 20)
 Retirement Date: 24.04.2020

Pension Payment Details		Amount	Notes
0100	Monthly Pension - Self	62785.00	
0101	Pension Increases - Self	53499.00	
1599	Medical Allow - Pensioner	12557.00	
1600	Med. All. 2015 Pensioner	3139.00	
Total pension transferred		131,980.00	

Details of Pension Increases

Sr No	Period	Increase % or amount	Increase Amount	W.E.F	Sr No	Period	Increase % or amount	Increase Amount	W.E.F
01	JUL.2011	15.00 %	9417.82	25.04.2020					
02	JUL.2015	10.00 %	7220.33	25.04.2020					
03	JUL.2016	10.00 %	7942.36	25.04.2020					
04	JUL.2017	10.00 %	8736.60	25.04.2020					
05	JUL.2018	10.00 %	9610.26	25.01.2020					
06	JUL.2019	10.00 %	10571.28	25.04.2020					

Bank Details :

Account Number : 08530002351601

Bank : HABIB BANK LIMITED AKHARPURA, NOWSHERA. AKBARPURA, NOWSHERA. NOWSHERA

Address :

Email : fazlimahood2020@gmail.com

Date of Issue: 25.08.2020

PRD Type / PRD Number / FRSN: 00016260-01 / 00016260

Pension Register No: PEN-17-P-2/2020-21

Pensioner's Name: FAZLI NABOOD

Father / Husband name: GHULAM SAID

Designation: PRINCIPAL A/TI

NIC No: 1720122563525

Grade / Scale: 20

Department/Min: AGRICULTURE TRAINING INST

Pensioner's Type: SELF

Pension Type: SUPERANNUATION

Date of Birth: 25.04.1960

Date of appointment: 28.08.1983

Date of Retirement: 24.04.2020

Date of Death: 25.04.2020

Date of Restoration: 25.04.2020

Accounts office ID: PW

Accounts office Name: AG KP Peshawar

Federal / Province: Khyber Pakhtunkhwa

Length of Qualifying Service: 36 years, 7 months, 27 days

No. and Date of sanction of pension / Letter No. NO.SOR(AD)21-138884EW

and the date of the other Audit and Accounts officer authorising

the Pensioner/Grantor/Communion

Permanent Address:

The She is also entitled to the following increases

Sl No	Period	Increase %	or amount	Increase Amount	W.E.F
1	JUL 2011	13.00%		9417.32	25.04.2020
2	JUL 2015	10.00%		1220.33	25.04.2020
3	JUL 2016	10.00%		7942.36	25.04.2020
4	JUL 2017	10.00%		8736.60	25.04.2020
5	JUL 2018	10.00%		9610.26	25.04.2020
6	JUL 2019	10.00%		10571.29	25.04.2020
7			Rs. 0.00	0.00	25.04.2020

PROPOSED PENSION SLIP

Payment details

Wage Type	Wage Type Text	Amount
0100	Monthly Pension - Self	62785.45
0101	Pension Insurance - Self	57198.64
1599	Medical Allow - Pensioner	12337.90
1600	Med All 2015 Pensioner	3179.27
5901	Amount of Pension	250134.00

Age: 60 years
 Last Drawn pay (Inclusive) (Rs.): 137993.00
 Gross Pension (Rs.): 96593.00
 1-4th Surrendered Portion (Rs.): 33807.55
 Commuted Portion (Rs.): 62785.45
 Net Pension (Rs.): 0.00
 Net Family Pension (Rs.): 5019164.00
 With Held Amount (Rs.): 0.00
 Late Time Areas (Rs.): 0.00
 Areas Of Pension (Rs.): 0.00
 Special Additional Pension (Rs.): 0.00
 Commutation Percentage: 35.00
 Commutation Table Value: 12.37
 Recovery on A.C of: Khyber Pakhtunkhwa
 Debitable to Govt:

36

Bank Details
 Bank Account Number: 08530002351601
 Bank Branch: AKBAHPURA, NOWSHERA
 AKBAHPURA, NOWSHERA
 Payment Mode: STAIRIB BANK LIMITED
 ACCOUNTS OFFICER
 (Pension)

Document Printed on 25.08.2020 by 458419

Opted for 35% commutation

37

Date of Retirement : Year - Month - Day
 2020 - 04 - 25
 Date of Birth : 1960 - 04 - 25
 Age at Retirement : 60 y

Date of Retirement : 2020 - 04 - 25
 Date of Appointment : 1983 - 08 - 28
 Length Service : 36 y, 7 m, 27 d

Qualifying Service : 30 years
 Basic Pay : 132,230.00
 Personal Pay : 4,510.00
 Senior Post Allowance : 1,250.00
 Total Emoluments : 137,990.00
 Gross Pension : 96,593.00
 35% Commuted Portion : 33,807.55
 Net Pension : 62,785.45
 Commutation Rate : 148.4628
 Commutation Amount : 5,019,163.53
 Date of Restoration : 25-04-2032

Net Pension :		62,785.45
15% increase of 2010	0.00	62,785.45
15% increase of 2011	9,417.82	72,203.27
20% increase of 2012	0.00	72,203.27
15% increase of 2013	0.00	72,203.27
10% increase of 2014	0.00	72,203.27
10% increase of 2015	7,220.33	79,423.60
10% increase of 2016	7,942.36	87,365.96
10% increase of 2017	8,736.60	96,102.56
10% increase of 2018	9,610.26	105,712.82
10% increase of 2019	10,571.28	116,284.10
20% Medical Allowance of 2010	12,557.09	
25% increase on Medical Allowance	3,139.27	
Orderly Allowance :	NaN	
Net Pension Payable Rs.		131,980.46

ATTESTED

N 38

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 3083/2021

Date of Institution... 23.02.2021

Date of Decision... 09.05.2023

Akbar Ali Khan, Ex-Office Assistant (BPS-16), Office of the Directorate General,
on Farm Water Management, Khyber Pakhtunkhwa, Peshawar.

... (Appellant)

VERSUS

The Chief Secretary, Civil Secretariat Peshawar, Government of Khyber
Pakhtunkhwa and 04 others.

... (Respondents)

SYED NOMAN ALI BUKHARI,
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

--- For respondents.

MR. SALAH-UD-DIN
MR. MUHAMMAD AKBAR KHAN

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise averments alleged by the
appellant in his appeal are that he was appointed as Junior Clerk in the
respondent-respondent on 18.12.1980 and was promoted to the post of
Assistant (BPS-16) on 01.02.2008; that final seniority list of Office
Assistants (BPS-16) as it stood on 31.12.2019 was notified vide
Notification dated 23.01.2020 wherein the name of the appellant was at
serial No. 2; that Office Assistant namely Abdul Mateen, who was at
serial No. 1 of the seniority list stood retired on 22.09.2020 and the

appellant became senior most Office Assistant; that posts of Amir Nawaz Superintendent (BPS-17) as well as Muhammad Ramazan Superintendent (BPS-17) became vacant on their retirement on 22.09.2020 and 12.10.2020 respectively; that they had submitted affidavits that they opt for full retirement/pensionary benefits on attaining the age of superannuation (60 years) and would not claim any right to continue their service in case of acceptance of CPLA filed against the judgment dated 19.02.2020 passed by Honourable Peshawar High Court, Peshawar, whereby Khyber Pakhtunkhwa Civil Servants Amendment Act, 2019 was declared ultra vires of the Constitution of Islamic Republic of Pakistan, 1973 and was set-aside; that the appellant before his retirement on 31.12.2020 had filed departmental appeal, whereby request was made for convening the meeting of Departmental Promotion Committee so that the appellant could be considered for promotion from BPS-16 to BPS-17, however the same was not responded within the statutory period, hence the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, respondents were summoned, who put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

3. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal.

On the other hand, learned Deputy District Attorney for the

40

3

respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

4. We have heard the arguments of learned counsel for the parties and have perused the record.

5. A perusal of the record would show that according to seniority list of Office Assistants (BPS-16) of on Farm and Water Management Department Khyber Pakhtunkhwa as it stood on 31.12.2019 and notified vide Notification dated 23.01.2020, the appellant was at serial No. 2 of the seniority list, while one Abdul Mateen was at serial No. 1. Vide office order dated 05.10.2020, the afore-mentioned Office Assistant namely Abdul Mateen stood retired with effect from 22.09.2020 on attaining the age of 60 years and thus the appellant became senior most Office Assistant (BPS-16). Through Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2019 (Khyber Pakhtunkhwa Act No. XXX of 2019) published in the gazette dated 31.07.2019, the age of retirement of Civil Servants was increased from 60 years to 63 years. The same was challenged before the august Peshawar High Court, Peshawar through Writ Petition No. 5673-P/2019 as well as other Writ Petitions, which were allowed vide judgment dated 19.02.2020 and Act No. XXX of 2019 was declared as ultra vires of Constitution of Islamic Republic of Pakistan, 1973 and was thus set-aside. The afore-mentioned judgment of Hon'ble Peshawar High Court, Peshawar was challenged through filing of CPLAs before the worthy apex court, which were disposed of

41

vide order dated 07.01.2021 by setting-aside the judgment dated 19.02.2020 passed by the august Peshawar High Court, Peshawar and the matter was remitted back for its decision afresh in accordance with law through a reasoned judgment after giving opportunity of hearing to all the parties. In the meanwhile, Provincial Government passed Khyber Pakhtunkhwa Civil Servants (Amendment) Ordinance, 2021, whereby the issue of age of retirement was settled down.

6. It is an admitted fact that prior to the retirement of the appellant on 31.12.2020, 02 posts of Superintendents (BPS-17) were lying vacant due to retirement of Mr. Amir Nawaz and Muhammad Ramazan. It is also an admitted fact that the appellant was senior most Office Assistant due to retirement of Abdul Mateen Office Assistant (BPS-16) with effect from 22.09.2020. Available on the record are undertakings submitted by afore-mentioned Superintendents (retired) namely Amir Nawaz and Muhammad Ramazan as well as Office Assistant retired namely Abdul Mateen, wherein they had categorically mentioned that they opt for full retirement/pensionary benefits on attaining the age of superannuation (60 years) and that they shall not claim any benefits in case of acceptance of CPLA of the Provincial Government filed against the decision of the august Peshawar High Court, Peshawar rendered in Writ Petition No. 5673-P/2019 as well as other Writ Petitions. What could be gathered from the comments of the respondents, is that the only reason for not convening the meeting of Departmental Promotion Committee was that the issue of age of retirement of civil servants was



pending adjudication before the worthy apex court. The Notification regarding retirement of Superintendent namely Amir Nawaz and Muhammad Ramazan as well as Office Assistant namely Abdul Mateen would show that they stood retired on attaining the age of superannuation i.e 60 years. They had also submitted undertakings, wherein they had categorically mentioned that they shall not claim any benefits in case of decision of the worthy apex court in favour of the Provincial Government in CPLAs filed against the judgment dated 19.02.2020 of Writ Petition No. 5673-P/2019 as well as other connected Writ Petitions. In such a situation, the meeting of Departmental Promotion Committee was required to have been convened and if the appellant was found entitled to promotion to BPS-17, his promotion could have been made subject to outcome of concerned CPLA pending in the august Supreme Court of Pakistan. August Supreme Court of Pakistan in its judgment reported as 2023 PLC (C.S.) 336 has held as below:-


"6. If a person is not considered due to any administrative slip-up, error or delay when the right to be considered for promotion is matured and without such consideration, he reaches to the age of superannuation before the promotion, then obviously the avenue or pathway of proforma promotion comes into field for his rescue. If he lost his promotion on account of any administrative oversight or delay in the meeting of DPC or Selection Board despite having fitness, eligibility and seniority, then in all fairness, he has a legitimate expectation for proforma promotion with consequential benefits. The provision for proforma promotion is not alien or unfamiliar to the civil servant structure but it is already embedded in Fundamental Rule 17, wherein it is lucidly enumerated that the appointing authority may, if satisfied that a civil servant who was entitled to be promoted from a particulate date was, for no

43

fault of his own, wrongfully prevented from rendering service to the Federation in the higher post, direct that such civil servant shall be paid to arrears of pay and allowances of such higher post through proforma promotion or up-gradation arising from the antedated fixation of his seniority. We often noted that unjustified delay in proforma promotion cases trigger severe hardship and difficulty for the civil servants and also creates multiplicity of litigation. It would be in the fitness of things that the competent authority should fix a timeline with strict observance for the designated committees of proforma promotions in order to ensure rational decisions on the matters expeditiously with its swift implementation, rather than dragging or procrastinating all such issues inordinately or without any rhyme or reasons which ultimately compels the retired employees to knock the doors of Courts of law for their withheld legitimate rights which could otherwise be granted to them in terms of applicable rules of service without protracted litigation or Court's intervention."

7. In view of the above discussion, the appeal in hand is allowed and it is directed that the case of the appellant be placed before the Departmental Promotion Committee for consideration for pro-forma/notional promotion to the post of post of Superintendent (BS-17) from the due date within a period of 03 months of receipt of copy of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
09.05.2023


(MUHAMMAD AKBAR KHAN)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

2023 P L C (C.S.) 336

[Supreme Court of Pakistan]

Present: Sardar Tariq Masood, Amin-ud-Din Khan and Muhammad Ali Mazhar, JJ

FEDERATION OF PAKISTAN through Secretary, Ministry of National Health Services

Versus

JAHANZEB and others

Civil Petitions Nos. 3157 to 3165 of 2022, decided on 26th September, 2022.

(Against the judgment dated 21.05.2022 passed by the Federal Service Tribunal, Islamabad, in Appeals Nos. 305(R) to 313(R) CS of 2020)

(a) Civil service---

----Move-over policy---Scope---Move-over cannot be construed as promotion to the post of higher Basic Pay Scale, but the higher pay scale is treated to be an extension of the existing Basic Pay Scale of the post held by the employee---If an employee was not promoted and meanwhile reached to the maximum stage of his pay scale then obviously, he could be stagnant in his earlier pay scale due to attainment of maximum stage, therefore, as per erstwhile move-over Policy, the modus of move-over was devised to cope with such situations in accordance with the criteria provided under SI. No. 73 to SI. No. 91, (O.M. 1975 to 1999) incorporated in the Establishment Code 2007.

(b) Fundamental Rules---

----F.R. 17---Proforma promotion---Scope---If a person is not considered due to any administrative slip-up, error or delay when the right to be considered for promotion is matured and without such consideration, he reaches to the age of superannuation before the promotion, then obviously the avenue or pathway of proforma promotion comes into field for his rescue---If he lost his promotion on account of any administrative oversight or delay in the meeting of Departmental Promotion Committee (DPC) or Selection Board despite having fitness, eligibility and seniority, then in all fairness, he has a legitimate expectation for proforma promotion with consequential benefits---Unjustified delay in proforma promotion cases triggers severe hardship and difficulty for the civil servants and also creates multiplicity of litigation---Competent authority should fix a timeline with strict observance for the designated committees of proforma promotions in order to ensure rational decisions on the matters expeditiously with its swift implementation, rather than dragging or procrastinating all such issues inordinately or without any rhyme or reasons which ultimately compels the retired employees to knock the doors of Courts of law for their withheld legitimate rights which could otherwise be granted to them in terms of applicable rules of service without protracted litigation or Court's intervention.

Ch. Amir Rehman, Additional A.G.P., Iqbal Ahmed, J.S. and G.M. Jakhrani, D.D.(L) for Petitioner.

Nemo for Respondents.

Date of hearing: 26th September, 2022.

JUDGMENT

MUHAMMAD ALI MAZHAR, J.---The aforesaid Civil Petitions for leave to appeal are directed against the common Judgment dated 21.05.2022, passed by learned Federal Service Tribunal,

44

Islamabad ("Tribunal") whereby Service Appeals Nos. 305(R) to 313(R)CS/2020 were allowed with the directions to the department to take steps for grant of move-over to the appellants (respondents herein) from the date on which they became eligible.

2. The short-lived facts of the case are that the respondents were performing their duties in the Population Welfare Department. After retirement, they were allowed proforma promotion from BPS-17 to BPS-18 and BPS 18 to BPS-19 in compliance with the judgments of the learned Tribunal dated 23.10.2008 and 09.07.2010, and the Judgments of this Court dated 30.06.2009 and 24.11.2010. However, the respondents claimed the entitlement of move-over w.e.f. 01.12.2000 on the notion that they had reached the maximum stage of pay scale on 01.12.1999. Their request was forwarded to the concerned Ministry and thereafter, the Move-Over Committee ("Committee") was constituted and a meeting was convened on 31.07.2019. After discussion, the Committee decided that the respondents are not entitled for grant of move-over as requested by them and the decision of the Committee was communicated accordingly. Being aggrieved, the respondents filed representations to the department which were rejected; thereafter the respondents approached the learned Tribunal where their appeals were allowed.

3. The learned Additional A.G.P, argued that the learned Tribunal failed to consider the record with proper application of mind and reached an erroneous conclusion. It was further averred that the respondents were not regularly promoted, hence they were not entitled to the benefit of move-over. It was further contended that the learned Tribunal ignored that the cause of action arose to the respondents in the year 2000, but the appeal was filed in the year 2020 without giving any plausible explanation for the delay.

4. Heard the arguments. The bone of contention between the petitioner and private respondents is whether, before the proforma promotion, the respondents had already reached the maximum stage of BPS-19 and, hence, were entitled for grant of move-over to BPS-20. The controversy triggered when, on 19.11.2019, a memorandum was communicated to the respondents with regard to the decision arrived at in the meeting of the Committee from BPS-19 to BPS-20 to the ex-employees of the defunct Ministry of Population Welfare Department, whereby they were denied the benefit of move-over from BPS-19 to BPS-20. The minutes of meeting are on record which demonstrate a duly incorporated table showing the names of respondents at Serial Nos.1 to 6 and 9 to 11 (Appellants before the Tribunal), and in Paragraph No. 3 of the same minutes of meeting it is noticeably and unambiguously elucidated that the AGPR, Accounts offices, Punjab and KFK have confirmed that the officers mentioned in the minutes of the meeting had already reached maximum of BPS-19 before the date of their proforma promotion, hence they are entitled for grant of move-over to BPS-20 but said recommendations were not accepted by the Committee and, in Paragraph No. 6, certain observations were made that proforma promotions were granted under the directions of the Courts as in some cases juniors were granted proforma promotion and on the basis of this wrong act a large number of petitioners accrued their right for promotion.

45

Seemingly, the Committee rejected the request of move-over with the resentment and exasperation that the proforma promotion was granted under the orders of the Courts which displeased them and, instead of deciding the issue of move-over on its merits, the request was turndown without proper application of mind which deprived the respondents of their right of move-over which accrued before the date of proforma promotion.

5. It is a well settled exposition of law that a move-over cannot be construed as promotion to the post of higher Basic Pay Scale, but the higher pay scale is treated to be an extension of the existing Basic Pay Scale of the post held by the employee. Though the Government Policy for extending move-over was discontinued which has also been mentioned by the learned Tribunal with the cutoff date as 01.07.2002, but the fact remains that the respondents were not claiming their move-over after its discontinuation or revision of the policy but they were pursuing the entitlement of proforma promotion accrued in the next higher grade before the cut-off date. If an employee was not promoted and meanwhile reached to the maximum stage of his pay scale then obviously, he could be stagnant in his earlier pay scale due to attainment of maximum stage, therefore, as per erstwhile move-over Policy, the modus of move-over was devised to cope with such situations in accordance with the criteria provided under SI. No.73 to SI. No.91, (O.M. 1975 to 1999) incorporated in the Establishment Code 2007. The respondents were deprived of the benefit vide memorandum dated 19.11.2019 and being aggrieved, they approached to the learned Tribunal for relief, thus we do not subscribe the arguments of the learned Additional Attorney General that the appeals were time barred before the learned Tribunal which plea has already been dealt with adequately by the Tribunal in the impugned judgment.

6. If a person is not considered due to any administrative slip-up, error or delay when the right to be considered for promotion is matured and without such consideration, he reaches to the age of superannuation before the promotion, then obviously the avenue or pathway of proforma promotion comes into field for his rescue. If he lost his promotion on account of any administrative oversight or delay in the meeting of DPC or Selection Board despite having fitness, eligibility and seniority, then in all fairness, he has a legitimate expectation for proforma promotion with consequential benefits. The provision for proforma promotion is not alien or unfamiliar to the civil servant service structure but it is already embedded in Fundamental Rule 17, wherein it is lucidly enumerated that the appointing authority may, if satisfied that a civil servant who was entitled to be promoted from a particular date was, for no fault of his own, wrongfully prevented from rendering service to the Federation in the higher post, direct that such civil servant shall be paid the arrears of pay and allowances of such higher post through proforma promotion or upgradation arising from the antedated fixation of his seniority. We often noted that unjustified delay in proforma promotion cases trigger severe hardship and difficulty for the civil servants and also creates multiplicity of litigation. It would be in the fitness of things that the competent authority should fix a timeline with strict observance for the designated committees of proforma promotions in order to ensure rational decisions on the matters expeditiously with

46

its swift implementation, rather than dragging or procrastinating all such issues inordinately or without any rhyme or reasons which ultimately compels the retired employees to knock the doors of Courts of law for their withheld legitimate rights which could otherwise be granted to them in terms of applicable rules of service without protracted litigation or Court's intervention.

7. The learned Tribunal has also referred to the Office Memorandum dated 7.10.1999 in which, according to the policy instructions of 1986, civil employees of the Federal Government were allowed to move-over to the next highest basic pay scale with effect from 1st December of the year following the year in which they reach the maximum. It was further mentioned in the same office memorandum that these instructions were inferred erroneously to imply one year's stay at the maximum before entitlement to move-over, and the term "following year" used in the instructions of 1986 in fact means the next calendar year. When the present respondents were granted proforma promotion to BPS-19 with effect from 29.12.1999 vide notification dated 15.01.2018, they had already reached the maximum stage of BPS-19, therefore, they were entitled to be moved-over to BPS-20. After considering the pros and cons, the learned Tribunal rightly set aside the decision of the Committee dated 31.7.2019, whereby the respondents were denied the benefit of move-over which was accrued to them before the date of proforma promotion. All factual and legal aspects have already been considered and dealt with by the book in the impugned judgment of the learned Tribunal.

8. In the wake of the above discussion, we do not find any irregularity or perversity in the impugned judgment passed by the learned Tribunal. The Civil Petitions are dismissed and leave is refused.

MWA/F-15/SC
dismissed.

Petitions

ATTACHED

