

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

C.M No. _____ -A/2024

IN

S.A No. 2019/2024

Awais Qureshi Senior Scale Stenographer BPS-16, Commissioner's Office,
Hazara Division, Abbottabad.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through SMBR, Khyber Pakhtunkhwa,
Peshawar & others.

...RESPONDENTS

APPLICATION


INDEX

<i>S. No.</i>	<i>Description</i>	<i>Page Nos.</i>	<i>Annexure</i>
1.	Application alongwith Affidavit	1 to 5	
2.	Copy of impugned minutes of meeting dated 14/10/2024	6 to 8	"A"
3.	Copies of appointment orders in respect of the appellant/petitioner and Respondent No. 6	9 to 10	"B" & "C"
4.	Copy of relevant Section 8 of KP Civil Servant Act 1973 and Rules 17 of KP (Appointment, Promotion, Transfer Rules, 1989)	11-36	"D" & "E"


...PETITIONER

Dated: _____/2024

Through


(Muhammad Arshad Khan Tanoli)
Advocate Supreme of Pakistan
at Abbottabad

&


(MUHAMMAD IBRAHIM KHAN)
Advocate High Court Abbottabad

1

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Awais Qureshi Senior Scale Stenographer BPS-16, Commissioner's Office, Hazara Division, Abbottabad.

...APPELLANT...
Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Registry No. 17916

Dated 13.11.24

1. Govt. of Khyber Pakhtunkhwa through SMBR, Khyber Pakhtunkhwa, Peshawar.
2. Commissioner Hazara Division, Abbottabad.
3. Secretary to Commissioner Hazara Division, Abbottabad.
4. Assistant to Commissioner (Poll/Dev), Hazara Division, Abbottabad.
5. Assistant to Commissioner (Rev/G.A), Hazara Division Abbottabad.
6. Faiza Abbasi Computer Operator Office of Commissioner Hazara Division Abbottabad.

...RESPONDENTS

SERVICE APPEAL

APPLICATION FOR PLACING OF
IMPUGNED MINUTES OF MEETING DATED
14/10/2024 AND THE RESPONDENTS'
DEPARTMENT MAY BE RESTRAINED NOT
TO ISSUE FINAL SENIORITY LIST AGAINST
SECTION 08 OF KP CIVIL SERVANT ACT OF
1973 AND RULE 17 OF KP (APPOINTMENT,
PROMOTION AND TRANSFER RULES 1989).

=====

Respectfully Sheweth;-

1. That the captioned service appeal is pending adjudication before this Honourable Tribunal and next date of hearing is fixed on 27/11/2024 at Camp Court, Abbottabad.
2. That, the impugned minutes of meeting dated 14/10/2024 have been issued under the pressure of Minister for Revenue & Estate namely, Mr. Nazeer Abbassi as the said Minister has also signed minutes of meeting dated 14/10/2024 which is against the law and rules. Copy of impugned minutes of meeting dated 14/10/2024 is attached as **Annexure "A"**.
3. That, as per law, the candidate appointed first in time shall stand senior to the candidate appointed subsequently.
4. That, respondent No.6 got appointment on 16/11/2011, whereas the appellant/petitioner was appointed on 06/10/2011. Therefore, the appellant/petitioner is senior to respondent No.6. Copies of appointment orders in respect of the appellant/petitioner and respondent No.6 are annexed as **Annexure "B" & "C"**.

5. That, as per impugned minutes of meeting dated 14/10/2024 the respondent No.6 shown Senior to the appellant/petitioner which is clear violation of Section 8 of KP Civil Servant Act 1973 and Rule 17 of KP (Appointment, Promotion, Transfer Rules 1989). Copy of relevant Section 8 of KP Civil Servant Act 1973 and Rules 17 of KP (Appointment, Promotion, Transfer Rules 1989 are attached as **Annexure "D" & "E"**).

6. That respondent No. 6 belongs to Abbassi clan of PK-42, Abbottabad-I, Constituency of Mr. Nazir Abbasi, Minister for Revenue & Estate. Therefore, said minister by passing the rules participated in meeting dated 14/10/2024 just to accommodate Respondent No.6 illegally. Therefore, the attitude of department towards the appellant/petitioner is against the law.

7. That the valuable rights, as per service law, of the appellant/petitioner have been infringed; Therefore, when very foundation is illegal the whole structure shall collapse being void, ab-initio.

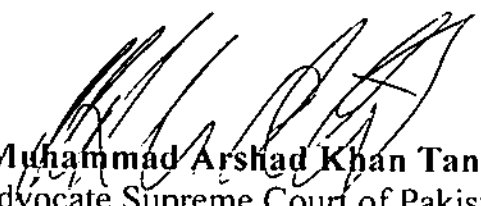
In view of the above, it is prayed that, the attached documents may be ordered to be placed on court file and the respondents department may be directed not to issue any seniority list on the basis of impugned minutes of meeting dated 14/10/2024 till the final disposal of the main service appeal.



...PETITIONER

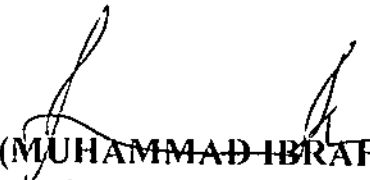
Through

Dated: _____/2024



(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan,
at Abbottabad

&



(MUHAMMAD IBRAHIM KHAN)
Advocate High Court Abbottabad

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...APPELLANT

VERSUS

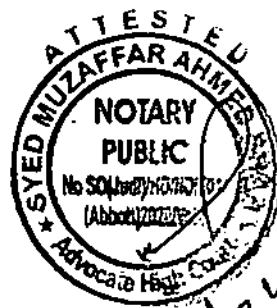
Govt. of Khyber Pakhtunkhwa through SMBR, Khyber Pakhtunkhwa,
Peshawar & others.

...RESPONDENTS

WRIT PETITION


AFFIDAVIT

I, Awais Qureshi Senior Scale Stenographer BPS-16, Commissioner's
Office, Hazara Division, Abbottabad, do hereby solemnly affirm and
declare that the contents of forgoing application are true and correct to the
best of my knowledge, belief and nothing has been concealed therein from
this Honourable tribunal.




 DEPONENT

(Annexure-A)

	GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT.
091-9212726	MINUTES OF THE REVIEW MEETING
091-9212708	

SUBJECT: MINUTES OF THE REVIEW MEETING HELD ON 14.10.2024 AT 12:00 (NOON) REGARDING CONSOLIDATED JUDGMENT IN SERVICE APPEAL NO. 712/2016 & NO. 713/2021.


A review meeting was held on 14.10.2024 in the Committee Room of Board of Revenue under the chairmanship of the Minister for Revenue & Estate in light of the judgment of Service Tribunal dated 27.09.2023 to examine the seniority list of Computer Operators office of Commissioner Hazara Division.

2. Following attended the meeting:

1. Mr. Nazir Ahmad Abbasi, (In Chair)
Minister for Revenue & Estate,
Government of Khyber Pakhtunkhwa
2. Syed Imtiaz Hussain Shah,
Senior Member, Board of Revenue
3. Syed Zaheer-Ul- Islam,
Commissioner Hazara Division
4. Mr. Amer Latif,
Member (Settlement /Admn) Board of Revenue
5. Mr. Noor Khan,
Assistant Secretary (Estt) Board of Revenue

3. The chair welcomed the participants. The Assistant Secretary (Estt) Board of Revenue presented the matter in light of the following judgment of the Khyber Pakhtunkhwa Service Tribunal dated 27.09.2023.

4. "The appellant and private respondent, were initially appointed as Computer Operators in a same selection process though for the unknown reasons, two meetings of the DSC were held on two different dates, the one on 03.10.2011 and the second was on 16.12.2011. That right from initial recruitment, until date, no effort seems to have been done by the department to determine the seniority under section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-1(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Despite giving number of opportunities to the Commissioner Hazara Division, the Tribunal was also not provided any authentic and single merit list or one signed or certified by him, to decide the issue in accordance with law & rules nor any seniority list had been shown to have been notified in the official gazette as required by law. The Commissioner, instead, vide report in writing, also raised doubts on the entire selection process and could not confirm any of the two merit lists produced by the appellants and private respondent, to be valid merit list of the candidates, who appeared in the process of selection, against the p

Attested


f Computer Operators, in the office of Commissioner, Hazara Division advertised on 7.07.2010 in Daily "Aaj". Because of this situation, especially, in absence of authentic/valid or duly signed/certified merit list or missing of the said merit list, the Tribunal could not decide the matter in accordance with law/rules and thus has no other way but to send the matter back to the authorities concerned with the direction to fix/determine the seniority strictly in accordance with Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and then issue final seniority list and properly notify the same in the official gazette as required by law rules.

5. As to the connected appeal, since, the private respondent of the above appeal No. 712/2016 named Miss Farah Naz was promoted on the basis of the unauthentic/invalid seniority list, as per findings made here in above, therefore, this matter is also remitted to the official respondents to decide it in accordance with the final and duly notified seniority list and the relevant rules. Needless to say that the promotions made in the meantime or further career progression of any of the parties, secured on the basis of disputed/invalid/unauthentic seniority list has to raze to the ground, and in the interest of justice, the person (s) who become senior after the above exercise would have right to such career progression subject to their otherwise entitlement under the relevant rules".

6. To unearth the factual position of the case, a review meeting was called to examine the minutes of the meeting dated 18.07.2024 wherein Miss Farah Naz was considered senior to Miss Faiza Abbasi Computer Operator. It has been observed during the meeting that official representative who attended the meeting dated 18.07.2024 was not fully aware about facts of the case, due to which the seniority case of the appellant/respondent could not reach to its logical conclusion, therefore, the said meeting was called again for decision afresh in a fair and transparent manner.

7. Commissioner Hazara Division informed the meeting that Miss Farah Naz did not attend the recruitment process as her name was not mentioned in the candidate list prepared for typing test. Likewise her name was not exist neither in attendance sheet nor in the merit list prepared for selection of Computer Operators, then how she was appointed as Computer Operator. On the other hand the appellant (Miss Faiza Abbasi) participated in all the recruitment process, and all these documents are available in the office of Commissioner Hazara.

8. Further to mention here that an enquiry was also conducted by Mr. Tasleem Khan Ex-Deputy Commissioner, Haripur wherein it has been held that "Ms. Farah Naz, Computer Operator whose name appeared in the minutes of DPSC dated 03.10.2011 and does not figure in the Attendance Sheet and Call Letter seemed to be interested for promotion as Senior Scale Stenographer (BPS-16) instead of Mr. Awais Qureshi might have misplaced the service record while posted in Establishment Branch for declaring herself to be senior in the respective cadre. She may be proceeded against independently for misplacement of relevant record from the main file, since she did not file appeal well in time and to cover the lacuna as the misplacement was in her best interest. She did so after misplacing the record on the basis of her vested interest in the matter, which has been

Attested


established from the file to get benefit herself from the situation. Moreover, some copies of Note Sheets produced during the course of investigation by Mr. Awais Qureshi would further corroborate the involvement of Ms. Farah Naz, Computer Operator rendering her for disciplinary action under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. However, no further proceedings appear to have been done by the Deputy Commissioner, Haripur nor by anybody else, as nothing was produced before the Tribunal in that respect. So it is unknown as to what had happened thereafter".

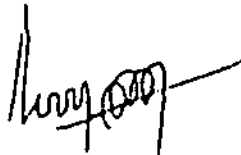
9. It has further been observed during the meeting that Competent Authority for the post of Computer Operator is the Divisional Commissioners therefore, after completing all the legal formalities in light of the judgment dated 27.09.2023 in Service Appeal No. 312/2016 the Commissioner Hazara Division has rightly issued letter No.CHD/Estab/1/2/26-29 dtd: 01.01.2024 wherein Miss Faiza Abbasi placed at Serial No. 01 in the seniority list of Computer Operators office of the Commissioner Hazara.

10. After threadbare discussion the following decision were made:

1. The seniority list of Computer Operators working in Commissioner Hazara Division stand on 31.12.2011 issued by the Commissioner Hazara Division on 02.01.2024 is correct and authentic.
2. There are 02 conflicting merit lists produced before the Tribunal, therefore, the list of then ACR, Member of DSC, corresponding to their period in this office will be considered authentic and final.
3. Regarding connected service appeal of Mr. Abdul Wahab, the same will be reviewed in light of the recent notification of Board of Revenue No. Est. P. SSRC/Div./CMS/ 2023/25494-502 dated 20/11/2023.
4. The Deputy Commissioner, Mansehra being enquiry officer will initiate inquiry against the alleged appointment of Miss. Farah Naz as it is apparent that she has been appointed without fulfillment of due process. The process of enquiry shall be completed within one month.

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

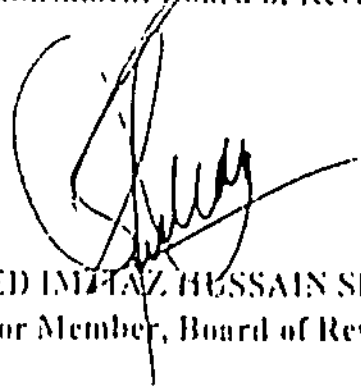
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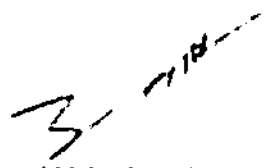
(NOOR KHAN)
Assistant Secretary
Establishment Board of Revenue



(SYED ZAHEER-UL-ISLAM)
Commissioner, Hazara Division



(SYED IMTIAZ HUSSAIN SHAH)
Senior Member, Board of Revenue



(NAZIR AHMAD ABBASI)
Minister for Revenue & Estate

OFFICE OF THE COMMISSIONER HAZARA DIVISION ABBOTTABAD

2011
06/10

ORDER

Consequent upon the recommendations of the Departmental Selection/Recruitment Committee the following are hereby appointed as Computer Operator (BPS-12) in the Commissioner's Office Abbottabad on the following terms and conditions:-

Sl	Name	Father Name	Address
01	Miss. Farha Nuz	Muhammad Ismail	Village Guli Bagh Post Office Baffa District Mansehra.
02	Awais Qureshi	Wali Muhammad Qureshi	LM 75/1 Mohalla Qazi Chitta Poon Abbottabad.

1. His/her services will be governed by Section-19 of the NWFP, Civil Servants Act, 1973 as amended vide NWFP Civil Servants (Amendment Act, 2005). He/she will be entitled to contributory Provident Fund in such manners and at such rates as prescribed by the government.
2. His/her services will be liable to termination on one-month notice from either side. In case of resignation without notice, his/her two months pay/allowances shall be forfeited to the government.
3. He/she will be governed by such rules and regulations as may be issued from time to time by the government.
4. He/she will be remain on probation for a period of one year in terms of Section-6 of the NWFP, Civil Servants Act, 1973 read with Rule-15 (1) of the NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules 1989. His/her services can be terminated any time in case his/her performance is found unsatisfactory during probation period. In case of misconduct, he/she shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance, 2000 and the rules framed by the government from time to time.
5. The appointment offer is subject to verification of his/her academic documents from the concerned Board/University.
6. He/she shall be bound to accept his/her adjustment/absorption in any of the departments/offices in Hazara Division as ordered by the Competent Authority.

Before joining the post he/she will have to provide (a) Medical Fitness Certificate from the Medical Superintendent, DHQ Hospital of his/her respective district of domicile. (b) Character Certificate from local Police Station (c) Attested photo copies of academic documents.

In case the above terms and conditions of appointment are acceptable, he/she is required to report his arrival in the office of the undersigned within seven (07) days of the receipt of this letter, otherwise, the appointment would be treated as cancelled.

Sd/xxx


Commissioner Hazara Division
Abbottabad

Encl: No. CHD/Estab: 4050-54

Dated Abbottabad the 06 / 10 / 2011

Copy to the:-

1. District Comptroller of Accounts, Abbottabad.
2. PS to Commissioner Hazara Division, Abbottabad.
3. Assistant Budget & Accounts Commissioner's Office.
4. Officials concerned.



Assistant to Commissioner (Rev/GA)
Hazara Division Abbottabad

Alleged




OFFICE OF THE
COMMISSIONER HAZARA DIVISION
ABBOTTABAD

ORDER

Consequent upon the recommendation of the Departmental Promotion/Selection Committee which met on 16/12/2011, Miss. Faiza Abbasi D/O Jana-e-Alam R/O Sir Syed Colony District Abbottabad working as Junior Clerk in this office is hereby appointed as Computer Operator (BPS-12) in the office of the Commissioner Hazara Division Abbottabad on the following terms and conditions: e

1. His/her services will be governed by Section-19 of the NWFP, Civil Servants Act, 1973 as amended vide NWFP Civil Servants (Amendment Act, 2005). He/she will be entitled to Contributory Provident Fund in such manners and at such rates as prescribed by the government.
2. His/her services will be liable to termination on one-month notice from either side. In case of resignation without notice, two months pay/allowances shall be forfeited to the government.
3. He/she will be governed by such rules and regulations as may be issued from time to time by the government.
4. He/she will be remained on probation for a period of two years in term of Section-6 of the NWFP, Civil Servants Act, 1973 read with Rule-15 (1) of the NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules 1989. His/her services can be terminated any time in case his performance is found unsatisfactory during probation period. In case of misconduct, he/she shall be proceeded against under the E&D rules 2011.
5. He/she shall be bound to accept his adjustment/absorption in any of the departments/offices in Hazara Division as ordered by the Competent Authority.

In case the above terms and conditions of appointment are acceptable, He/She is required to report. His/her arrival within seven (07) days of the receipt of his letter, otherwise the order will be considered cancelled.

Sd/xxx
Commissioner Hazara Division
Abbottabad

Endst: No.12/CHD/Estab:/ 11149-54

Dated Abbottabad 16/12/2011

Copy to the:

1. District Comptroller of Accounts, Abbottabad
2. PS to Commissioner Hazara Division Abbottabad.
3. Divisional Nazer (Local).
4. Assistant Budget & Accounts Branches (Local) for necessary action.
5. The official concerned.

Assistant to Commissioner (Rev/GA)
Hazara Division Abbottabad

THE ¹[KHYBER PAKHTUNKHWA] CIVIL SERVANTS ACT, 1973.
²[KHYBER PAKHTUNKHWA] ACT NO. XVIII OF 1973.

[11th November, 1973].

CONTENTS

SECTIONS

1. Preamble.

CHAPTER-I
PRELIMINARY

2. Definitions.

CHAPTER-II
TERMS AND CONDITIONS OF SERVICE OF SERVANTS

3. Terms & conditions.
4. Tenure of office of civil servants.
5. Appointment.
6. Probation.
7. Confirmation.
8. Seniority.
9. Promotion.
10. Posting and transfers.
11. Termination of services.
³[11A. Absorption of civil servants rendered surplus.]
⁴[11B. Absorption or appointment of Federal employees.]
12. Reversion to a lower post.

¹ Substituted vide Khyber Pakhtunkhwa Act. IV of 2011.

² Substituted vide Khyber Pakhtunkhwa Act. IV of 2011.

³ Inserted vide Khyber Pakhtunkhwa Ordinance No. VI of 2001.

⁴ Inserted vide Khyber Pakhtunkhwa Act No. XXXVIII of 2015.

Amended
[Signature]

2 | Page

- ¹[12A. Certain persons to be liable to removal or reversion.]
- ²[13. Retirement from service.]
- ³[13A. Protection of certain acts.]
14. Employment after retirement.
15. Conduct.
16. Disciplinary action.
17. Pay.
18. Leave.
- ⁴[19. Pension and gratuity.]
20. Provident Fund.
21. Benevolent Fund and Group Insurances.
22. Right of appeal or representation.

CHAPTER-III
MISCELLANEOUS

23. Saving.
- ⁵[23A. Indemnity.]
- ⁶[23-B. Jurisdiction barred.]
24. Removal of difficulties.
25. Appointment of persons on contract, etc.
26. Rules.
27. Repeal.

Allesed
MM

¹ Inserted vide Khyber Pakhtunkhwa Ordinance No. IX of 1978.
² Substituted vide Khyber Pakhtunkhwa Act No. XI of 2021.
³ Substituted vide Khyber Pakhtunkhwa Act No. XI of 2021.
⁴ Substituted vide Khyber Pakhtunkhwa Act No. X of 2022.
⁵ Inserted vide Khyber Pakhtunkhwa Ordinance No. XIV of 2002.
⁶ Inserted vide Khyber Pakhtunkhwa Ordinance No. XIV of 2002.

THE ¹[KHYBER PAKHTUNKHWA] CIVIL SERVANTS ACT, 1973.

[11th November, 1973].

²[KHYBER PAKHTUNKHWA] ACT NO. XVIII OF 1973.

(Received the assent of the Governor of the ³[Khyber Pakhtunkhwa] on 11th November, 1973).

AN
ACT

to regulate the appointment of persons to, and the terms and conditions of service of persons in the service of the ⁴[Khyber Pakhtunkhwa].

WHEREAS it is expedient to regulate by law, the appointment of persons to and the terms and conditions of service of person in the service of the ⁵[Khyber Pakhtunkhwa], and to provide for matters connected therewith or ancillary thereto;

Preamble.

It is hereby enacted as follows :-

1. (1) This Act may be called the ⁶[Khyber Pakhtunkhwa] Civil Servants Act, 1973.

(2) This section and section 25, shall apply to persons employed on contract, or on work charged basis, or who are paid from contingencies, and the remaining provisions of this Act including this section, shall apply to all civil servants wherever they may be.

(3) It shall come into force at once.

CHAPTER-1 PRELIMINARY.

2. (1) In this Act, unless the context otherwise requires the following expressions shall have the meanings hereby respectively assigned to them, that is to say, —

Definitions.

(a) "ad hoc appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed

¹ Substituted vide Khyber Pakhtunkhwa Act.IV of 2011.
² Substituted vide Khyber Pakhtunkhwa Act.IV of 2011.
³ Substituted vide Khyber Pakhtunkhwa Act.IV of 2011.
⁴ Substituted vide Khyber Pakhtunkhwa Act.IV of 2011.
⁵ Substituted vide Khyber Pakhtunkhwa Act.IV of 2011.
⁶ Substituted vide Khyber Pakhtunkhwa Act.IV of 2011.

(16)

method of recruitment, pending recruitment in accordance with such method.

(b) "civil servant" means a person who is member of a civil service of the Province, or who holds a civil post in connection with the affairs of the Province, but does not include—

(i) a person who is on deputation to the Province from the Federation or any other Province or other authority;

(ii) a person who is employed on contract, or on work-charged basis, or who is paid from contingencies; or

(iii) a person who is a "worker" or "workman" as defined in the Factories Act, 1934 (Act XXV of 1934), or the Workman's Compensation Act, 1923 (Act VIII of 1923);

(c) "Government" means the Government of the ¹[Khyber Pakhtunkhwa];

(d) "initial appointment" means appointment made otherwise than by promotion or transfer;

(e) "pay" means the amount drawn monthly by a civil servant as pay, and includes special pay, personal pay and any other emoluments declared by the prescribed authority to be pay;

(f) "permanent post" means a post sanctioned without limit of time;

(g) "prescribed" means prescribed by rules;

(h) "Province" means the ²[Khyber Pakhtunkhwa];

(i) "rules" means rules made or deemed to have been made under this Act;

(j) "selection authority" means the ³[Khyber Pakhtunkhwa] Public Service Commission, a departmental selection board, departmental selection committee or other authority or body on

¹ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

² Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

³ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

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the recommendation of, or in consultation with which any appointment or promotion, as may be prescribed, is made;

(k) "temporary post" means a post other than a permanent post.

2. For the purpose of this Act, an appointment, whether by promotion or otherwise shall be deemed to have been made on regular basis if it is made in the prescribed manner.

CHAPTER —II.

TERMS AND CONDITIONS OF SERVICE OF SERVANTS.

3. The terms and conditions of service of a civil servant shall be as provided in this Act and the rules.

Terms & conditions.

4. Every civil servant shall hold office during the pleasure of the Governor.

Tenure of office of civil servants.

5. Appointments to a civil service of the Province or to a civil post in connection with affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorized by the Governor in that behalf.

Appointment.

6. (1) An initial appointment to a service or post referred to in section 5, not being an *ad hoc* appointment, shall be on probation as may be prescribed.

Probation.

(2) Any appointment of a civil servant by promotion or transfer to a service or post may also be made on probation as may be prescribed.

(3) Where, in respect of any service or post, the satisfactory completion of probation includes the passing of a prescribed examination test or course or successful completion of any training, a person appointed on probation to such service or post who, before the expiry of the original or extended period of his probation has failed to pass such examination or test or to successfully complete course or the training shall, except as may be prescribed otherwise.—

(a) if he was appointed to such service or post by initial recruitment be discharged; or

(b) if he was appointed to such service or post by promotion or transfer, be reverted to the service or post from which he was promoted or transferred and against which he holds a lien or, if there be no such service or post, be discharged :

Provided that in the case of initial appointment to a service or post a civil servant shall not be deemed to have completed his period of probation satisfactorily

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until his character and antecedents have been verified as satisfactory in the opinion of the appointing authority.

7. (1) A person appointed on probation shall on satisfactory completion of his probation, be eligible for confirmation in a service or, as the case may be, a post as may be prescribed. Confirmation.

(2) A civil servant promoted to a post ¹[* * *] on regular basis shall be eligible for confirmation, after rendering satisfactory service for the period prescribed for confirmation therein.

(3) There shall be no confirmation against any temporary post.

(4) A civil servant who, during the period of his service, was eligible to be confirmed in any service or against any post retires from service before being confirmed shall not merely by reason of such retirement, be refused confirmation in such service or post or any benefits accruing therefrom.

(5) Confirmation of civil servant in a service or post shall take effect from the date of occurrence of permanent vacancy in that service or post or from the date of continuous officiation, in such service or post, whichever is later.

8. (1) For proper administration of a service, cadre or ²[post] the appointing authority shall cause a seniority list of the members for the time being of such service cadre or ³[post] to be prepared but nothing herein contained shall be construed to confer any vested right to a particular seniority in such service, cadre or ⁴[post] as the case may be. Seniority.

(2) Subject to the provisions of sub-section (1), the seniority of a civil servant shall be reckoned in relation to other civil servants belonging to the same service or ⁵[cadre] whether serving in the same department or office or not, as may be prescribed.

(3) Seniority on initial appointment to a service, ⁶[Cadre] or post shall be determined as may be prescribed.

⁷[(4) Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post :

¹ The word "or grade" omitted by Khyber Pakhtunkhwa Ord. No. IV of 1985 Section 2.

² The word "Grade" substituted by Khyber Pakhtunkhwa Ord. No. IV of 1985 Section 3.

³ The word "Grade" substituted by Khyber Pakhtunkhwa Ord. No. IV of 1985 Section 3.

⁴ The word "Grade" substituted by Khyber Pakhtunkhwa Ord. No. IV of 1985 Section 3.

⁵ The word "Grade" substituted by Khyber Pakhtunkhwa Ord. No. IV of 1985 Section 3.

⁶ The word "Grade" substituted by Khyber Pakhtunkhwa Ord. No. IV of 1985 Section 3.

⁷ Substituted vide Khyber Pakhtunkhwa ordinance No. IV of 1985 Section 3.

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Provided that civil servants who are 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.”]

¹[(5) The seniority lists prepared under sub-section (1) shall be revised and notified in the official Gazette at least once in a calendar year, preferably in the month of January.]

9. (1) A civil servant possessing such minimum qualification as may be prescribed shall be eligible for promotion to a ²[higher] post for the time being reserved under the rules for departmental promotion in ³[* * *] the service or cadre to which he belongs.

Promotion.

(2) A post referred to in sub-section (1) may either be a selection post or a non-selection post to which promotion shall be made as may be prescribed ----

(a) in the case of a selection post, on the basis of selection on merit; and

(b) in the case of a non-selection post, on the basis of seniority-cum-fitness.

10. Every civil servant shall be liable to serve anywhere within or outside the Province in any post under the Federal Government, or any Provincial Government or local authority, or a corporation or body set up or established by any such Government:

Posting and transfers.

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region :

Provided further that where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

11. (1) The service of a civil servant may be terminated without notice,—

Termination of services.

(i) during the initial or extended period of his probation :

Provided that, where such civil servant is appointed by promotion on probation or, as the case may be, is transferred from one ⁴[service] cadre or post to

¹ Added vide Khyber Pakhtunkhwa Act No. 1 of 1989.

² The word "higher" inserted vide Khyber Pakhtunkhwa Ord. No. V of 1985 Section 4.

³ The words "the higher grade of" omitted by Khyber Pakhtunkhwa Ord. No. IV of 1985 Section 4.

⁴ The word "Grade", substituted by Khyber Pakhtunkhwa Ord. No. IV of 1985.

another ¹[service] as he holds a lien against his former post in such ²[service] or cadre but he shall be reverted to his former ³[service] cadre or post, as the case may be;

- (ii) on the expiry of the initial or extended period of his employment; or
- (iii) if the appointment is made *ad hoc* terminable on the appointment of a person on the recommendation of the selection authority, on the appointment of such person.

(2) Where, on the abolition of a post or reduction in the number of post in a cadre or grade, the services of a civil servant are required to be terminated, the person whose services are terminated shall ordinarily be the one who is the most junior in such cadre or grade.

(3) Notwithstanding the provisions of sub-section (1), but subject to the provisions of sub-section (2) the service of a civil servant in temporary employment or appointed *ad hoc* shall be liable to termination on fourteen days notice or pay in lieu thereof.

⁴**[11A. Absorption of civil servants rendered surplus.**—Notwithstanding anything contained in this Act, the rules made thereunder, any agreement, contract or the terms and conditions of service, a civil servant who is rendered surplus as a result of re-organization or abolition of a department, office or abolition of a post in pursuance of any Government decision may be appointed to a post, carrying basic pay scale equal to the post held by him before such appointment, if he possesses the qualifications and fulfills other conditions applicable to that post:

Provided that where no equivalent post is available, he may be offered a lower post in such manner and subject to such conditions as may be prescribed, and where such civil servant is appointed to a lower post, the pay being drawn by him in the higher post immediately preceding his appointment to a lower post shall remain protected.]

⁵**[11B. Absorption or appointment of Federal employees.**--- (1) Notwithstanding anything contained in this Act, all those employees of the Federal Government, who are holding various posts in Federal Government entities on regular basis, before the commencement of the Constitution (Eighteenth Amendment) Act, 2010 (X of 2010) and the said entities being devolved to Province in pursuance of aforesaid amendment, shall be deemed

¹ The word "Grade", substituted by Khyber Pakhtunkhwa Ord. No. IV of 1985.
² The word "Grade", substituted by Khyber Pakhtunkhwa Ord. No. IV of 1985.
³ The word "Grade", substituted by Khyber Pakhtunkhwa Ord. No. IV of 1985.
⁴ Inserted vide Khyber Pakhtunkhwa Ordinance No. VI of 2001.
⁵ Inserted vide Khyber Pakhtunkhwa Act No. XXXVIII of 2015.

to be the civil servants of the Province for all intents and purposes under this Act.

(2) All such Federal Government employees,-

- (a) if their relevant cadre is available in Government, shall be absorbed in the said cadre in the prescribed manner; and
- (b) if no relevant cadre is available in Government, shall be deemed to have been appointed on regular basis to various cadres posts to be created for this purpose:

Provided that on such appointment or absorption, as the case may be,-

- (i) their seniority shall be determined in accordance with the provision of this Act; and
- (ii) their liabilities with regard to pension, gratuity, group insurance, benevolent fund and leave encashment shall be proportionally shared between the Federal Government and Government in such a manner as may be agreed upon.

(3) Government shall constitute a committee consisting of Secretary to Government, Establishment Department, Secretary to Government, Finance Department, Secretary to Government, Law, Parliamentary Affairs and Human Rights Department, Secretary to Government, Inter Provincial Coordination Department and Secretary of the concerned Department to remove difficulties, if any, in implementation of this section.]

12. A civil servant appointed to a higher post or ¹[To a higher post or before the commencement of the ²[Khyber Pakhtunkhwa] Civil Servants (Amendment) Ordinance, 1985 to a higher ³[grade] *ad hoc* or on temporary or officiating basis shall be liable to reversion to his lower post ⁴[* * *] without notice.

Reversion to a lower [post.]

⁵[12-A. Certain persons to be liable to removal or reversion.— Notwithstanding anything contained in his terms and conditions of service a civil servant appointed or promoted during the period from first day of January, 1972 to the fifth day of July, 1977, may be removed from service or reverted to his lower post ⁶[* * *] as the case may be without notice by the

¹ Inserted by Khyber Pakhtunkhwa Ord. No. IV of 1978.
² Substituted vide Khyber Pakhtunkhwa Act. IV of 2011.
³ In the margin the word "Grade or service" substituted by Khyber Pakhtunkhwa Ord. No. IV of 1985.
⁴ The word "Grade" omitted by Khyber Pakhtunkhwa Ord. No. IV of 1985.
⁵ Section 12-A, inserted by Khyber Pakhtunkhwa Ord. No. IX of 1978.
⁶ The word "Grade" omitted by Khyber Pakhtunkhwa Ord. No. IV of 1985 Section 7.

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Governor or a person authorized by him in this behalf on such date as the Governor or as the case may be, the person so authorized may, in the public interest, direct.]

¹[13. **Retirement from service.**--- (1) A Civil Servant shall retire from service on the completion of sixtieth (60th) year of his age.

(2) A Civil Servant may opt to retire early from service, after completion of twenty five (25) years of qualifying service or attaining the age of fifty five (55) years, whichever is later.

(3) Notwithstanding anything contained in sub-section (1) and (2), the competent authority may in the public interest, direct that a Civil Servant may retire from service, from such date, as may be determined by the competent authority, after he has completed twenty (20) years of service, qualifying for pension or other retirement benefits, in the manner as may be prescribed:

Provided that no direction under this sub-section shall be made until the Civil Servant has been informed in writing of the grounds on which it is proposed to make the direction, and has been given a reasonable opportunity of showing cause against the said direction.

Explanation.- In this section, the expression "competent authority" means the appointing authority prescribed in rule 4 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.]

²[13A. **Protection of certain acts.**--- (1) All the Civil Servants, who were conditionally retired from service on or after 31st day of July, 2019 shall, for all intents and purposes, be deemed to have been regularly retired from service on the date of attaining sixtieth (60th) years of age.

(2) Any Civil Servant, who has completed sixty (60) years of age but is not retired from service, by virtue of or in pursuance of the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2019, shall be deemed to have been retired from service from the date when such Civil Servant has completed sixty (60) years of age.

(3) Any salary, allowances and other ancillary benefits received or drawn by such Civil Servant under this section on or after 31st day of July, 2019 shall be deemed to be validly received and drawn.]

14. (1) A retired civil servant shall not ordinarily be re-employed under Government, unless such re-employment is necessary in the public interest and is made with the prior approval of the authority next above the appointing authority:

Employment after retirement.

¹ Substituted vide Khyber Pakhtunkhwa Act No. XI of 2021.
² Inserted vide Khyber Pakhtunkhwa Act No. XI of 2021.

Provided that, where the appointing authority is the Governor, such re-employment may be ordered with the approval of the Governor.

(2) Subject to the provisions of sub-section (1) of section 3 of the Ex-Government Servants (Employment with Foreign Governments) (Probation) Act, 1966 (Act XII of 1966), a civil servant may during leave preparatory to retirement, or after retirement from Government service, seek any private employment:

Provided that, where employment is sought by a civil servant while on leave preparatory to retirement or within two years of the date of his retirement, he shall obtain the prior approval of the prescribed authority.

15. The conduct of a civil servant shall be regulated by rules made or instructions issued by Government or a prescribed authority whether generally or in respect of a specified group or class of civil servants. Conduct.

16. A civil servant shall be liable to prescribed disciplinary action and penalties in accordance with the prescribed procedure. Disciplinary action.

17. A Civil servant appointed to a post ¹[* **] shall be entitled, in accordance with the rules, to the pay sanctioned for such post ²[* * *]: Pay.

Provided that, when the appointment is made on a current charge basis or by way of additional charge, his pay shall be fixed in the prescribed manner:

Provided further that where a civil servant has , under an order which is later set aside, been dismissed or removed from service or reduced in rank he shall on the setting aside of such order, be entitled to such arrears of pay as the authority setting aside such order may determine.

18. A civil servant shall be allowed leave in accordance with the leave rule applicable to him ; provided that the grant of leave will depend on the exigencies of service and be at the discretion of the competent authority. Leave.

³19. Pension and gratuity.--(1) On retirement from service, a civil servant, appointed on regular basis in the prescribed manner, before the commencement of the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2022, shall be entitled to receive such pension or gratuity, as are admissible to him under the pension rules for the time being in force:

¹ The word "grade" omitted by Khyber Pakhtunkhwa Ord. No. IV of 1985 Section 8.
² The word "grade" omitted by Khyber Pakhtunkhwa Ord. No. IV of 1985.
³ Substituted vide Khyber Pakhtunkhwa Act No. X of 2022.

Provided that in the event of death of such a civil servant as provided in this sub-section, whether before or after retirement, his family shall be entitled to receive such pension or gratuity or both, as admissible under the said rules.

(2) A person to be appointed on regular basis to a service or post in the prescribed manner, on or after the commencement of the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2022 shall, for all intents and purpose, be civil servant except for the purpose of pension and gratuity. Such a civil servant shall, in lieu of pension and gratuity, be entitled to receive such amount contributed by him towards the Contributory Provident Fund along with the contributions, made by Government to his account in the said Fund, in the prescribed manner:

Provided that in the event of death of such a civil servant as provided in this sub-section, whether before or after retirement, his family shall be entitled to receive the amount of Contributory Provident Fund, if it has already not been received by such deceased civil servant.

(3) No pension to a civil servant who is otherwise entitled under sub-section (1) shall be admissible to him, if he is dismissed or removed from service for reasons of discipline but Government may sanction compassionate allowance to such civil servant, not exceeding two-third of the person or gratuity which would have been admissible to him, had he been invalidated from service on the date of such dismissal or removal:

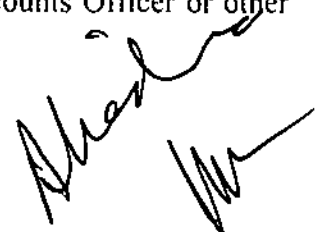
Provided that a civil servant, referred to in sub-section (2), in case of such dismissal or removal, may, in addition to his own contributions to the Contributory Provident Fund, be allowed, on account of such compassionate allowance, a sum not exceeding two-third of Government contributions in his account.

(4) If the determination of the amount of pension or gratuity, admissible to a civil servant as specified in sub-section (1), is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity, as may be determined by the prescribed authority, according to the length of service of the civil servant which qualifies for pension or gratuity, and any over payment, on such provisional payment, shall be adjusted against the amount of pension or gratuity, finally determined as payable to such civil servant or his family.]

20. (1) Before the expiry of the third month of every financial year, the Accounts Officer or other officer required to maintain provident fund accounts shall furnish to every civil servant subscribing to a provident fund the account of which he is required to including the interest accruing thereon, if any and withdrawals or advances from, his provident fund during the preceding financial year.

Provident Fund.

(2) Where any subscription made by a civil servant to his provident fund has not been shown credited in the account by the Accounts Officer or other



officer required to maintain such account such subscription shall be credited to the account of the civil servant on the basis of such evidence as may be prescribed.

21. All civil servants and their families shall be entitled to the benefits admissible under the West Pakistan Government Employments Welfare Fund Ordinance, 1969 (W.P. Ord I of 1969) or the ¹[Khyber Pakhtunkhwa] Government Servants Benevolent Fund Ordinance, 1972 ²[Khyber Pakhtunkhwa] Ord. VII of 1972), and the rules made thereunder. Benevolent Fund and Group Insurances.

22. (1) Where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is provided to a civil servant under any rules applicable to him, such appeal or application shall, except as may be otherwise prescribed be made within thirty days of the date of such order. Right of appeal or representation.

(2) Where no provisions for appeal or review exists under the rules in respect of any order or class of orders, a civil servant aggrieved by any such order may within thirty days of the communication to him of such order make a representation against it to the authority next above the authority which made the order:

Provided that no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.

CHAPTER—III.— MISCELLANEOUS.

23. Nothing in this Act or in any rule shall be construed to limit or abridge the power of the Governor to deal with the case of any civil servant in such manner as may appear to him to be just and equitable: Saving.

Provided that where this Act or any rule is applicable to the case of a civil servant the case shall not be dealt with in any manner less favourable to him than that provided by this Act or such rule.

³[23A. Indemnity.— No suit, prosecution or other legal proceedings shall lie against a civil servant for anything done or intended to be done in good faith in his official capacity under this Act or the rules, instructions or direction made or issued thereunder.

23B. Jurisdiction barred.— Save as provided under this Act and the Service

¹ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.
² Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.
³ Inserted vide Khyber Pakhtunkhwa Ordinance No. XIV of 2002.

Tribunal Act, 1974 (Khyber Pakhtunkhwa Act No.1 of 1974), or the rules made thereunder, no order made or proceedings taken under this Act, or the rules made thereunder by the Governor or any officer authorised by him shall be called in question in any court and no injunction shall be granted by any court in respect of any decision made, or proceedings taken in pursuance of any power conferred by or under this Act or the rules made thereunder.]

24. If any difficulty arises in giving effect to any of the provisions of this Act, the Governor may make such order, not inconsistent with the provisions of this Act, as may appear to him to be necessary for the purpose of removing the difficulty :

Removal of difficulties.

Provided that no such power shall be exercised after the expiry of one year from the coming into force of this Act.

25. The Governor or any person authorized by the Governor in that behalf may, on such terms and conditions as he may specify in each case, appoint persons on contract basis, or on work charged basis or who are paid out of contingencies :

Appointment of persons on contract, etc.

Provided that all such employees who were working in any such capacity immediately before the commencement of this Act shall continue to be so employed on the same terms and conditions on which they were appointed.

26. (1) The Governor or any person authorized by the Governor in this behalf, may make such rules as appear to him to be necessary or expedient for carrying out the purposes of this Act.

Rules.

(2) Any rules, orders or instructions in respect of any terms and conditions of service of civil servants duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, orders or instructions are not inconstant with the provisions of this Act be deemed to be rules made under this Act.

27. The ¹[Khyber Pakhtunkhwa] Civil Servants Ordinance 1973 (²[Khyber Pakhtunkhwa] Ordinance No. VI of 1973). is hereby repealed.

Repeal.

¹ Substituted vide Khyber Pakhtunkhwa Act. IV of 2011.

² Substituted vide Khyber Pakhtunkhwa Act. IV of 2011.

THE ¹KHYBER PAKHTUNKHWA CIVIL SERVANTS
(APPOINTMENT, PROMOTION & TRANSFER) RULES, 1989

PART-I

GENERAL

1. **Short title and commencement:** - (1) These rules may be called the ²[Khyber Pakhtunkhwa] Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

(2) They shall come into force at once.

2. **Definitions:**-(1) In these rules, unless the context otherwise requires:-

(a) "Appointing Authority" in relation to a post, means the persons authorized under rule 4 to make appointment to that post;

(b) "Basic Pay Scale" means the Basic Pay Scale for the time being sanctioned by Government, in which a post or a group of posts is placed;

(c) "Commission" means the ³[Khyber Pakhtunkhwa] Public Service Commission;

⁴(d) "Departmental Promotion Committee" means a committee constituted for making selection for promotion or transfer to such posts under a Department, or offices of Government, which do not fall within the purview of the Provincial Selection Board;

⁵(dd) "Departmental Selection Board" means a Board constituted for the purpose of making selection for initial recruitment /appointment to posts under a Department or office of Government in Basic Pay Scale 17 not falling within the purview of the Commission:

Provided that more than one such committees may be constituted for civil servants holding different scales of pay".

(e) "Departmental Selection Committee" means a committee constituted for the purpose of making selection for initial appointment to posts under a department, or office of Government [in Basic Pay Scale 17 and below not falling within the purview of the Commission];

(f) "Post" means a post sanctioned in connection with the affairs of the Province, but not allocated to all Pakistan Unified Grades ; and

¹ For the words "NWFP" or "North-West Frontier Province", wherever occurred, the words "Khyber Pakhtunkhwa" substituted by the Khyber Pakhtunkhwa Laws (Amendment) Act, 2011 (Khyber Pakhtunkhwa Act No. IV of 2011) published in the Khyber Pakhtunkhwa Government Gazette Extraordinary dated 2nd April, 2011

² Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

³ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁴ Substituted by Clause (d) of sub-rule (1) of Rule 2 vide Notification No. SOR-I (S&GAD) 4-1/80 (Vol-II) dated 14-01-92.

⁵ Clause (dd) added by Notification No. SOR-III (S&GAD) 2-7/86, dated 8-12-1994

⁶(g) "Provincial Selection Board" means the Board constituted by Government for the purpose of selection of civil servants for promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister and shall consist of such persons as may be appointed to it by Government from time to time.

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the ⁷[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (⁸[Khyber Pakhtunkhwa] Act XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. **Method of Appointment:-** (1) Appointment to posts shall be made by any of the following methods, namely:-

- (a) by promotion or transfer in accordance with the provisions contained in Part-II of these rules; and
- (b) by initial recruitment in accordance with the provisions contained in Part-III of these rules.

(2) The method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the Department concerned in consultation with the ⁹Establishment and Administration Department and the Finance Department.

4. **Appointing Authority:-** The authorities competent to make appointment to posts in various basic pay scales shall be as follows:-

S.No. !	Posts !	Appointing Authority
¹⁰ 1. (a)	Posts in Basic Pay Scale 18 and above including posts in Basic Pay Scale 17 borne on any of the following services; (i) Former Provincial Civil Service (Executive Branch); (ii) Former Provincial Civil Service (Judicial Branch); and (iii) Provincial Civil Secretariat Service.	Chief Minister
¹¹ (b)	Posts in Basic Pay Scale 17	Chief Secretary

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⁶ Clause (g) substituted by Notification No. SOR-I(S&GAD) 4-1/80/II, dated 14-01-1992.

⁷ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁸ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁹ For the words "Services and General Administration" wherever occurred, substituted with the words "Establishment and Administration" by Notification No. SO(O&M) E&AD/8-6/2001 dated 30-05-2001.

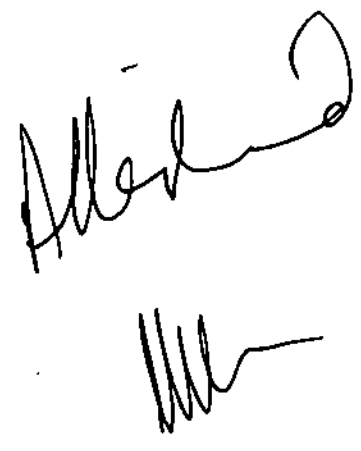
¹⁰ Substituted by Notification No. SOR-I(S&GAD)4-1/75/Vol-I, dated 22-08-1991.

¹¹ Substituted by Notification No. SOR-III(E&AD)2(144)03 dated 16-09-2003.

other than those covered by
(a) above and the post of
Deputy Superintendent of
Police; and.

¹²(c) Posts of Deputy Superintendents of Police. Provincial Police Officer/
Inspector General of Police.

2. Posts in Basic Pay Scale 16. (a) In the case of Secretariat of the Government of ¹³[Khyber Pakhtunkhwa], the Chief Secretary.



¹² Inserted by Notification No. SOR-III(E&AD)2(144)03 dated 16-09-2003.

¹³ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

- (b) In case of High Court, the Chief Justice; and
- (c) In the case of Attached Department:

- (i) the Head of Attached Department concerned; and
- (ii) In any other case the Secretary of the Department concerned.

3. Posts in Basic Pay Scales 3 to 15.

- (a) In the case of civil Servants borne on ministerial establishment of Civil Courts subordinate to High Court, the officer authorized as such by the Chief Justice; and
- (b) In other cases
 - (i) an officer declared under the relevant Delegation of Powers Rules, which shall to this extent be deemed as operative; or
 - (ii) Where no such appointing authority has been declared, the Secretary to Government or the Head of an Attached Department/ Office, as the case may be.

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4. posts in Basic pay Scale 1 and 2.	Deputy Secretary incharge of Administration or office, , as the care may be
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5. ¹⁴Departmental Promotion & Selection Committee/Board- (1) In each Department or office of Government there shall be one or more Departmental Promotion Committee and Departmental Selection Committee ¹⁵(or, as the case may be, Departmental Selection Board), the composition of which shall be determined by the Establishment and Administration Department or the Department in consultation with the Establishment and Administration Department.

(2) Each such Committee (or the Board, as the case may be), shall consist of at least three members, one of whom shall be appointed as Chairman.

¹⁴ The heading of rule 5 substituted by Notification No. SOR-I(S&GAD)2-7/86, dated 8-12-1994.

¹⁵ The words inserted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994

¹⁶6. **Procedure when recommendation is not accepted:-** When an appointing authority for Basic Pay Scale 17 or below does not accept the recommendation of a Departmental Promotion or Selection Committee, or the Departmental Selection Board, as the case may be, it shall record its reasons and obtain order of the next higher authority.

PART-II

APPOINTMENT BY PROMOTION OR TRANSFER

7. **Appointment by Promotion or Transfer.** ¹⁷(1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee".

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exist.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18 to 21 unless the officer concerned has completed such minimum length of service as may be specified from time to time.

¹⁸(5) If on an order of promotion or before promotion any civil servant declines in writing, to accept promotion, such civil servant shall not be considered for such promotion for the next four years following order.

Provided that if he declines to avail the benefit of promotion for the second time, then he shall stand superseded permanently for such promotion.

8. **Inter-Provincial Transfer:-**(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:-

Provided that:-

- (i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;

¹⁶ Rule-6 substituted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994

¹⁷ Sub rule (1) substituted by Notification No. SOR-I(S&GAD)4-1/80/II, dated 14-01-1992.

¹⁸ Sub rule (5) inserted by Notification No. SOR-VI(E&AD)1-3/2009/Vol-VIII, dated 22-10-2011.

- (iv) the person concerned is a bona fide resident of the ¹⁹[Khyber Pakhtunkhwa].
- (v) a vacancy exists to accommodate the request for such a transfer; and:
- (vi) Provided further that in most deserving cases, the merit of which shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purpose of determining his seniority vis-à-vis other members borne on the cadre.

(3) It will be the sole discretion of the appointing authority to accept or refuse a request for transfer under this rule and any decision made in this behalf shall be final and shall not be quoted as precedence in any other case.

9. **Appointment on Acting Charge or current Charge Basis.** (1) Where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service the authority may appoint him to that post on acting charge basis;

²⁰Provided that no such appointment shall be made, if the prescribed length of service is short by more than ²¹[three years].

²²[(2)].

(3) In the case of a post in Basic Pay Scale 17 and above, reserved under the rules to be filled in by initial recruitment, where the appointing authority is satisfied that no suitable officer drawing pay in the basic scale in which the post exists is available in that category to fill the post and it is expedient to fill the post, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the organization, cadre or service, as the case may be, in excess of the promotion quota.

(4) Acting charge appointment shall be made against posts which are likely to fall vacant for period of six months or more. Against vacancies occurring for less than six months, current charge appointment may be made according to the orders issued from time to time.

(5) Appointment on acting charge basis shall be made on the recommendations of the Departmental Promotion Committee or the Provincial Selection Board, as the case may be.

(6) Acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis.

PART-III

INITIAL APPOINTMENT

¹⁹ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

²⁰ Full stop at the end of Rule 9 (1) replaced with colon and proviso added by Notification No. SOR-I (S&GAD)4-1/80/Vol-II, dated 20-10-1993.

²¹ The words one year substituted by Notification No. SOR-I(S&GAD)4-1/80/III, dated 14.3.96.

²²Sub rule (2) of rule-9 deleted vide by Notification No. SOR-VI(E&AD)1-3/2009/Vol-VIII, dated 22-10-2011.

10. **Appointment by Initial Recruitment** :- (1) Initial appointment to posts ²³[in various basic pay scales] shall be made-

- (a) if the post falls within the purview of the Commission, on the basis of Examination or test to be conducted by the Commission; or
- (b) if the post does not fall within the purview of the Commission, in the manner as may be determined by Government.

²⁴(2) Initial recruitment to posts which do not fall within the purview of the Commission shall be made on the recommendation of the Departmental Selection Committee, after vacancies have been advertised in newspapers.

²⁵Provided that nothing contained in this sub-rule shall apply to the household staff of the Chief Minister House Peshawar, ²⁶[Khyber Pakhtunkhwa] House Islamabad, ²⁷[Khyber Pakhtunkhwa] Rest Houses Bannu, Swat and Abbottabad, ²⁸[Khyber Pakhtunkhwa] House Nathia Galli and Shahi Mehman Khana, Peshawar and any other House to be established by the Government:

²⁹Provided further that the appointment in Basic Pay Scale-1 to 4 shall be made on the recommendations of the Departmental Selection Committee through the District Employment Exchange concerned, ³⁰[or, where in a District, the office of the Employment Exchange does not exist, after advertising the posts in the leading newspapers] ³¹[]

(3) A candidate for initial appointment to a post must possess the educational qualification or technical qualifications and experience and except as provided in the rules framed for the purpose of relaxation of age limit, must be within the age limit as laid down for the post, provided that-

- (i) ³²where recruitment is to be made on the basis of written examination, then, notwithstanding anything to the contrary contained in any other rules for the time being in force, age shall be reckoned on 1st January of the year in which the examination is proposed to be held;
- (ii) in other cases as on the last date fixed for submission of applications for appointment.

²³ The words in basic pay scale-16 to 21 substituted by Notification No. SOR-I(S&GAD)1-117/91 (C), dated 12-10-1993.

²⁴ Sub rule (2) of Rule-10 substituted by Notification No. SOR-I(S&GAD) 1-117/91 (C), dated 12-10-1993.

²⁵ Proviso added vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 03-07-2003.

²⁶ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

²⁷ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

²⁸ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

²⁹ Proviso added vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 16-03-2004

³⁰ Sentence added in the Proviso vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 23-01-2006.

³¹ 2nd Proviso in sub- rule (2) of Rule 10 was deleted vide Notification No. SOR-VI(E&AD)1-3/2008 dated 09-05-2008 and added again vide Notification No. SOR-VI(E&AD)1-3/2008 dated 03-11-2008.

³² Clause (i) substituted vide Notification No. SOR-I(S&GAD)4-1/80, dated 17-5-1989.

³³(4) Where a civil servant dies or is rendered incapacitated/invalidated permanently during service then notwithstanding the procedure provided for in sub-rule (2), the appointing authority may appoint one of the children of such civil servant, or if the child has not attained the age prescribed for appointment in Government Service, the widow/wife of such civil servant, to a post in any of the Basic Pay Scales 1-10:

Provided that the child or the widow/wife as the case may be, possesses the minimum qualification prescribed for appointment to the post:

Provided further that if there are two widows/wives of the deceased civil servant, preference shall be given to the elder widow/wife.

Provided also that the appointment under this sub rule is subject to availability of a vacancy and if more than one vacancies in different pay scales are available at a time, and the child or the widow/wife, as the case may be, possesses the qualifications making him or her eligible for appointment in more than one post, he /she shall ordinarily be appointed to the post carrying higher pay scale.

Provided further that this shall not apply to any post in BPS-1-10 falling in the purview of the ³⁴[Khyber Pakhtunkhwa] Public Service Commission.

³⁵(5) Notwithstanding anything contained in any rule for the time being in force, two percent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for disabled candidates and ten percent of all posts meant for initial recruitment shall be reserved for female candidates:

Explanation-I---For the purpose of reservation under this sub-rule "disability" does not include such disability which hampers in the smooth performance of the duties required of a disabled candidate.

Explanation-II---Ten per cent quota reserved above shall be in addition to the posts exclusively reserved for female candidates.

³⁶(6) Notwithstanding anything contained in any rule for the time being in force, five per cent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for candidates hailing from earthquake affected areas of District Mansehra, Battagram, Shangla, Kohistan and Abbottabad (Calamity hit area) for a period of three years commencing from 1st February, 2006.

³⁷(7) Notwithstanding anything contained in any rule for the time being in force, ³⁸[three] percent of all the posts in each basic pay scale to be filled in by initial recruitment shall be reserved for candidates belonging to minorities in addition to their participation in the open merit:

Provided that, the reservation shall not apply to—

³³ Sub rule (4) substituted vide Notification No. SOR-VI (E&AD)1-3/2011/Vol-VIII, dated 31-08-2012.

³⁴ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

³⁵ Sub rule (5) substituted vide Notification No. SOR-VI (E&AD)1-10/03 (VI), dated 04-12-2007.

³⁶ Sub rule (6) inserted vide Notification No. SOR-VI(E&AD)1-3/03 (VI), dated 01-02-2006

³⁷ Sub rule (7) added vide Notification No. SOR-VI(E&AD)1-3/08, dated 06-01-2009

³⁸ Subs. vide Notification No. SORIV/E&AD/1-10(Minority)/2008, dated 08.01.2014.

- (i) the percentage of vacancies reserved for recruitment on merit;
- (ii) short term vacancies likely to last for less than one year; and
- (iii) isolated posts in which vacancies occur only occasionally.

11. **Eligibility.** (1) A candidate for appointment shall be a citizen of Pakistan and bona fide resident of the ³⁹[Khyber Pakhtunkhwa].

Provided that for reasons to be recorded in writing, Government may, in a particular case, relax this restriction.

⁴⁰[(2)]

(3) No person, not already in Government service, shall be appointed to a post unless he produces a certificate of character from the principal, academic officer of the academic institution last attended and also certificates of character from two responsible persons, not being his relatives, who are well acquainted with his character and antecedents.

(4) Notwithstanding anything contained in sub-rule (3), an appointment by initial recruitment shall be subject to the verification of character and antecedents of the candidate or the person appointed, to the satisfaction of appointing authority.

(5) No candidate shall be appointed to a post unless he is found, after such medical examination as Government may prescribe, to be in good mental and bodily health and free from physical defect likely to interfere in the efficient discharge of his duties.

12. **Zonal and Divisional representation:** - (1) Except as otherwise specifically provided in any rule for the time being in force, initial recruitment to posts in Basic Pay Scales 16 and 17 and other posts in Basic Pay Scales 3 to 15 borne on Provincial cadre shall be made in accordance with the Zonal quota specified by Government from time to time:

⁴¹Provided that initial recruitment to the post of Civil Judge/Judicial Magistrate/Allaqa Qazi (BPS-18) shall also be made in accordance with the zonal quota specified by the Government from time to time.

(2) Initial recruitment to posts in Basic Pay Scales 3 to 15 borne on divisional or district cadre shall be made from amongst bona fide residents of the division or district concerned, as the case may be.

(3) Initial recruitment to posts in Basic Pay Scales 1 and 2 or equivalent shall ordinarily be made on local basis.

PART-IV

AD HOC APPOINTMENT

13. **Requisition to Commission:**-When under any rule for the time being in force, a post is

³⁹ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁴⁰ Sub rule (2) of rule-11 deleted vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-06-2008

⁴¹ Proviso to rule-12 added vide Notification No. SOR-VI(E&AD)1-27/08, dated 03-07-2008

required to be filled in through the Commission, the appointing authority shall forward a requisition on the prescribed form to the Commission immediately after it is decided to fill in the post, or if that is not practicable and the post is filled on ad hoc basis as provided in rule 14, within two months of the filling of the post.

14. **Ad hoc Appointment:-**(1) When the appointing authority considers it to be in the public interest to fill in a post falling within the purview of the Commission urgently, it may, pending nomination of a candidate by the Commission, proceed to fill in such post on ad hoc basis for a period not exceeding ⁴²[one year] by advertising the same in accordance with the procedure laid down for initial appointment in Part-III of these rules.

(2) Short term vacancies in the posts falling within the purview of the Commission and vacancies occurring as a result of creation of temporary posts for a period not exceeding ⁴³[one year], may be filled in by appointing authority otherwise than through the Commission on a purely temporary basis after advertising the vacancy.

PART-V

PROBATION AND CONFIRMATION

⁴⁴15. **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.

⁴⁵(3) On the successful completion of probation period, the appointing authority shall, by specific order terminate the probation of the officer or official concerned within two months after the expiry of probation period prescribed in sub-rule(1):

Provided that if no specific order regarding termination of the probation period of the official or officer concerned is issued within two months, 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 ⁴⁶[Khyber Pakhtunkhwa] Civil Servants Act, 1973.

⁴² The words six months replaced with the words one year vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-01-2009.

⁴³ The words six months replaced with the words one year vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-01-2009.

⁴⁴ Rule-15 substituted vide Notification No. SOR-VI/E&AD/1-3/2009/Vol-VIII dated 16-2-2010.

⁴⁵ Sub rule (3) substituted vide Notification No. SOR-VI (E&AD)1-3/2012 dated 28-12-2012.

⁴⁶ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

PART-VI

SENIORITY

17. **Seniority :-** (1) the seniority inter se of civil servants ⁴⁷(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 ⁴⁸[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 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.

⁴⁹(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.

⁵⁰(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

⁴⁷ 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.

⁴⁸ The words inserted by Notification No. SOR-I(S&GAD)4-1/80/II, dated 04-02-1996.

⁴⁹ Sub-rule (3) of Rule 17 added vide Notification No. SOR-I(E&AD)4-1/80/IV, dated 28-5-2002.

⁵⁰ Sub-rule (4) of Rule 17 added vide Notification No. SOR-VI (E&AD) 1-3/2008 dated 19-11- 2009.

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 ⁵¹[Khyber Pakhtunkhwa] Civil Servants (Appointment, Promotion and Transfer) Rules, 1975, are hereby repealed.

(Authority; No. SORI(S&GAD)4-1/80, dated 13th May, 1989)

A handwritten signature in cursive script, followed by a scribble consisting of several vertical lines and a horizontal line extending to the right.

⁵¹ Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.