

**Before Khyber Pakhtun Khwa Service Tribunal, Peshawar**

Service Appeal No. 7038/2021

Farukh Zeb \_\_\_\_\_ Appellant

Versus

Govt. of Khyber Pakhtun Khwa & others \_\_\_\_\_ Respondents

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Appellant

Through

Dated:-02/07/2021

ASAD ZEB KHAN

Advocate, High Court, Peshawar.

Off: 202, 2<sup>nd</sup> Floor, City Gate Plaza, Near  
Chamber of Commerce, G.T Road,  
Peshawar

0346-9800565

FIDA MUHAMMAD YOUSAFZAI  
Advocate, High Court, Peshawar.

①

**Before Khyber Pakhtun Khwa Service Tribunal, Peshawar**

**Service Appeal No. /2021**

**Farukh Zeb S/O Humayun Khan, Naib Qasid, Topi (Rural, RBC & RVC) Local Govt. & Rural Development Department, District Swabi.**

**Appellant**

*Versus*

1. Govt. of Khyber Pakhtun Khwa, through Secretary Local Govt. & Rural Development Department, Khyber Pakhtun Khwa, Peshawar.
2. Secretary to Govt. of Khyber Pakhtun Khwa, Finance Department, Peshawar.
3. Director General, Local Govt. Elections & Rural Development Department, Khyber Pakhtun Khwa, Peshawar.
4. Assistant Director, Local Govt. Elections & Rural Development Department, Khyber Pakhtun Khwa, Swabi.

**Respondents**

**SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ACT OF THE RESPONDENT NO. 1 WHO ISSUED IMPUGNED NOTIFICATION DATED: 05-04-2018, VIDE WHICH THE RULE No. 16 OF THE DEPARTMENT NOTIFICATION No. DG (RWP) 7 (2) / 73 DATED: 26-01-1978 WAS AMENDED BY INSERTING 2<sup>ND</sup> DIVISION SSC AND 20% QOUTA FOR PROMOTION.**

**Respectfully Sheweth:**

**BRIEF FACTS**

1. That the appellant is having F.A on his credit which he earns after qualifying required examination from the concerned Board.

{True copy of educational testimonials are attached, as mark Annex-A}

2. That the appellant was appointed vide order dated: 28-02-2007 as Naib Qasid by the respondent/Local Govt. Department.

{True copy of appointment order is attached, as mark Annex-B}

3. **That** the appellant after his appointment, is performing his duties with great zeal and zest and to the entire satisfaction of the respondent department.

4. **That** the appellant is the senior most Naib Qasid in Tehsil Topi in the respondent Department.

{True copy of seniority list is attached, as mark Annex-C}

5. **That** the respondents/Local Govt. Department in consultation with the Establishment and Finance Departments framed their rules and from time to time made certain changes in the service rules of their employees.

6. **That** the respondent No. 1 vide notification dated: 03-12-2015 made certain changes in respect of filling up post of Village Secretary (BPS-07) vide which the required qualification for the post of village secretary was Intermediate with atleast 06 months computer certificate but through the subject amendment, no quota was reserved for promotion of the class-IV employees.

{True copy of notification dated: 03-12-2015 is attached, as mark Annex-D}

7. **That** on the basis of the amendment dated: 03-12-2015, the respondents/department made certain advertisement and also appointed hundreds of village secretaries throughout the province.

{True copy of advertisements are attached, as mark Annex-E}

8. **That** the appellant who was trying hard at every level for insertion of the quota of promotion to the posts of villages secretaries, when he was shocked to know that the respondents/ Local Govt. Department made the impugned notification of amendment dated: 05-04-2018 vide which 20% quota has been reserved for promotion from the post of Naib Qasid to the post of Junior Secretary Village/neighborhood council but surprisingly they while giving such benefit to the class-IV employees put a hurdle of having atleast 2<sup>nd</sup> Division SSC.

{True copy of impugned notification dated: 05-04-2018 is attached, as mark Annex-F}

9. That the respondent No. 4 after applying the newly amended rules, promoted 6 Naib Qasid's of tehsil Topi vide impugned notification dated: 13-06-2019 and failed to promote the appellant to the post of Village Secretary despite of the fact that he is senior most Naib Qasid in Tehsil Topi. Needless to mention that the said notification of promotion was later on withdrawn by the respondents.

{True copy of notification dated: 13-06-2019 is attached, as mark Annex-G}

10. That the appellant having aggrieved from the impugned notification dated: 05-04-2018 and promotion order dated: 13-06-2019, filed writ petition before Hon'ble Peshawar High Court, Peshawar, but during pendency of writ petition, some another improvements have been made through amended rules/ notification dated: 16-10-2019, so the appellant orally requested the Hon'ble High Court for amendment of writ petition which was allowed and the appellant was directed to file amended writ petition by challenging new rules as such, hence he filed amended writ petition.

{True copy of impugned rules / notification dated: 16-10-2019 & order sheet dated: 15-07-2020 is attached, as mark Annex-H & I}

11. That the appellant then filed amended writ petition but the said writ petition was disposed of by the august Peshawar High Court, Peshawar vide order/judgment 24-02-2021 by declaring that the remedy for appellant would surely be with service tribunal. It would be relevant to state that the notification dated: 16-10-2019 was later on withdrawn.

{True copy of order dated: 24-02-2021 is attached, as mark Annex-J}

12. That after decision of the writ petition, the appellant preferred departmental appeal before the respondent No. 1 on 17-03-2021 which was received at the Diary and Dispatch branch of the respondent No. 1 office. But despite of departmental appeal, no response was given till date, hence the instant service appeal.

{True copy of departmental appeal dated: 17-03-2021 is attached, as mark Annex-J}

**GROUNDS:**

④

- A. **Because** the impugned notification dated: 05-04-2018 issued by respondent No. 1 to the extent of changing Rule 16 is discriminatory, against law, facts, hence liable to be set-aside to the extent of having 2<sup>nd</sup> Division SSC and giving only 20% quota for promotion. Hence the impugned notification dated: 05-04-2018 is liable to set at naught to the extent of insertion of second division in SSC and be modified by increasing 20% quota for promotion to 40% quota for promotion.
- B. **Because** the impugned notification dated: 05-04-2018 to extent of changing in Rule 16 by inserting 2<sup>nd</sup> division SSC is illegal, unlawful, void ab initio, ultra vires and beyond the authority of its maker, hence liable to set at naught.
- C. **Because** the establishment department while amending their service rules for their own employees, gave them a caution period of 4 years and decided that the new rules shall not be applied to the existing matriculate employees for four years, but in case of appellant, no such caution has been given, hence the same is discriminatory.
- {True copy of notification dated: 18-07-2019 of establishment department is attached, as mark **Annex-L**}
- D. **Because** the establishment department while amending their service rules increased promotion quota from 33% to 40% but at the time of amending service rules for appellant's department, the establishment department intentionally decreased the same. Malafide is apparent.
- E. **Because** in the establishment department rules, only F.A/F.Sc is the requirement for promotion to the post of Junior Clerk and no 2<sup>nd</sup> or 3<sup>rd</sup> division is required while at the time of framing rules for appellant's department, condition of 2<sup>nd</sup> class SSC was inserted which is again discrimination for the appellant.
- F. **Because** in a similar case of Ismail Shah Vs Secretary Khyber Pakhtunkhwa Text Book Board (W.P No. 2554/2011 decided on 08-04-2013), the Hon'ble Peshawar High Court, Peshawar was pleased to directed the respondents/ Board to amend their service rules just like the rules of Establishment and Administration Department in vogue, so when the establishment department.

is giving caution period to their existing employees then why the respondents are reluctant to do so. Discrimination is apparent.

{True copy of judgment dated: 08-04-2013 is attached, as mark Annex-M}

- G. **Because** in a similar nature issue, the august Lahore High Court, Lahore had already turned down policy of inserting ineligibility of 3<sup>rd</sup> Divisioners in the rules.
- H. **Because** it has been held by the Superior Courts of Pakistan in plethora of judgments that the Govt. can't make or amend any service rules which put negative impact upon the employees or which is hurdle in their performance and promotion.
- I. **Because** the respondent No. 1 in utter disregard to the principles of the fairness, merit and transparency passed/issued the impugned notification dated: 05-04-2018 wherein for promotion to the post of Junior Secretary condition of having atleast 2<sup>nd</sup> Division SSC was inserted, hence the impugned notification of the respondent No. 1 is against the law, illegal, unlawful and void ab initio and liable to be turned down.
- J. **Because** the appellant has been treated unfairly, discriminatory and the initiative of the respondents is based on malafide. Through the impugned service rules, 2018, class-IV employees of the department having 3<sup>rd</sup> Division has been denied promotion, which is unwarranted.
- K. **Because** the basic qualification for appointment to the post of Junior Secretary Village / Neighborhood Council is intermediate by initial recruitment and there is no such condition of 2<sup>nd</sup> or 3<sup>rd</sup> Division but in the case of promotion to the said post, condition of having 2<sup>nd</sup> Division SSC has been laid down, which is disadvantages to the class-IV employees with 3<sup>rd</sup> Division.
- L. **Because** the recruitment/promotion criteria promulgated through the impugned notification is issued with ulterior motive just to accommodate the blue eyed, therefore, the same are illegal and such practice adversely affects efficiency of incumbents and also reduces the confidence and faith of the appellant, hence the impugned notification referred above is liable to be struck down on this score also.

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- M. **Because** the appellant had been made victim of discrimination, demerits, partiality and favoritism without any just and reasonable cause thereby offending the fundamental rights of the appellant as provided by the constitution of 1973, hence the impugned notification detailed above is liable to be set at naught.
- N. **Because** the present impugned notification is illegal, illogical, against facts, without jurisdiction and suffering from material irregularity, hence the same is untenable and liable to be struck down.
- O. **Because** through the impugned notification, the respondents have promoted certain Naib Qasid to the post of Junior Secretary who were junior in seniority to the appellant, but fortunately the said order was later on withdrawn.
- P. **Because** the Respondents erroneously exercised their powers against judicial principle, and have issued the impugned notification and opened a new pandora box in clear violation of Service law, hence, the said impugned notification is liable to be declared as illegal and unlawful and liable to be struck down.
- Q. The appellant craves for leave of the Hon'ble Court to raise additional grounds at the time of arguments.

**PRAYER:**

**IT IS, THEREFORE,** most respectfully prayed that on acceptance of this petition this Hon'ble Court may very graciously be pleased to:

- i. DECLARE THE IMPUGNED NOTIFICATION DATED: 05-04-2018 TO THE EXTENT OF MENTIONING 2<sup>ND</sup> DIVISION SSC AS ILLEGAL, UNLAWFUL, DISCRIMINATORY, VOID AB INITIO, ULTRA VIRES AND NULLITY IN THE EYES OF LAW.**
- ii. DIRECT THE RESPONDENTS TO INCREASE PROMOTION QUOTA FROM 20% TO 40%.**
- iii. DIRECT THE RESPONDENTS TO GIVE EQUAL RIGHT OF PROMOTION TO THE APPELLANT FOR THE POSTS OF JUNIOR SECRETARY VILLAGE/ NEIGHBORHOOD COUNCIL.**

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**iv. ANY OTHER RELIEF, THOUGH NOT SPECIFICALLY ASKED FOR, DEEMS APPROPRIATE MAY ALSO BE GRANTED.**

**Dated: 02-07-2021**

**Through**

*Asad*  
**Appellant**

**Asad Zeb Khan,  
Advocate High Court.**

**Fida Muhammad Yousafzai  
Advocate High Court.**

**VERIFICATION:**

It is verified that all the contents of the instant appeal are true and correct and nothing has been concealed intentionally from this Hon'ble Tribunal.

**Deponent**

**Note:** That no such like petition / Appeal on this subject matter has earlier been filed before this Hon'ble Tribunal.



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**Before Khyber Pakhtun Khwa Service Tribunal, Peshawar**

Service Appeal No. \_\_\_\_\_/2021

**Farukh Zeb** \_\_\_\_\_ **Appellant**

**Versus**

**Govt. of Khyber Pakhtun Khwa & others** \_\_\_\_\_ **Respondents**

**Application for and on behalf of appellant/applicant for restraining the respondents from filling the vacant posts of Junior Secretary Village / Neighborhood Council through promotion till final disposal of main appeal.**

**Respectfully Sheweth:**

1. That the appellant/applicant filed the accompanied service appeal in which no date of hearing is yet fixed.
2. That at the time disposal of this application, the appeal and its supportive documents may be considered as integral part of this application.
3. That the impugned notification has been passed in blatant violation of service laws, so the applicant has a genuine prima facie case in his hand and he is sanguine in respect of his success.
4. That there is no legal cavil in passing of restraining order for filling posts of Junior Secretary Village / Neighborhood Council through promotion and if the respondents are not restrained and status quo is not ordered, the accompanying appeal would become infructuous and meaningless.

**It is, therefore,** most respectfully prayed that the respondents may kindly be restrained from filling posts of Junior Secretary Village / Neighborhood Council through promotion and status quo be maintained till final disposal of main service appeal.

**Appellant**

**Through**

**Dated: 02-07-2021**

**Asad Zeb Khan,**  
**Advocate High Court,**

**Fida Muhammad Yousafzai**  
**Advocate High Court**

9

**Before Khyber Pakhtun Khwa Service Tribunal, Peshawar**

Service Appeal No. \_\_\_\_\_/2021

**Farukh Zeb** \_\_\_\_\_ **Appellant**

**Versus**

**Govt. of Khyber Pakhtun Khwa & others** \_\_\_\_\_ **Respondents**

**AFFIDAVIT**

I, **Iftikhar Ahmad S/O Humayun Khan, R/O Ghari Khadar Khan Khel, Menai P/O Khas, Tehsil & District Swabi (Special attorney for appellant)** do hereby solemnly affirm and declare upon oath that the contents of accompanied application are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Honorable Court.

Identified By:



**Asad Zeb Khan,**  
**Advocate High Court.**



**Deponent**

**CNIC# 16202-0935357-9**  
**Cell# 0301-8341093**

10

**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER  
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2021

Farrukh Zeb S/O Hamayun Khan, Naib Qasid, Topi (Rural,  
RBC & RVC) Local Development Department, District  
Swabi

**...Appellant**

Versus

Gout of Khyber Pakhtunkhwa & Others.

**.....Respondents**

**ADDRESSES OF PARTIES**

**APPELLANT:**



Farrukh Zeb S/O Hamayun Khan, Naib Qasid, Topi (Rural,  
RBC & RVC) Local Development Department, District  
Swabi

**RESPONDENTS:**

1. Gout of Khyber Pakhtunkhwa, through Secretary  
Local Gout & Rural Development, Khyber  
Pakhtunkhwa, Peshawar.
2. Secretary to Gout, of Khyber Pakhtunkhwa, Finance  
Department Peshawar.
3. Director General, Local Government, Elections &  
Rural Development Department, Khyber  
Pakhtunkhwa, Peshawar.
4. Assistant Director, Local Gout, Elections & Rural  
Development Department Khyber Pakhtunkhwa  
Swabi.

Appellant

Through

  
**Asad Zeb Khan**  
&  
  
**Fida Muhammad Yousafzai**  
Advocates, High Court

Dated: 13.07.2021



(Anzecha) 10  
(11)  
(Anzecha) A

**BOARD OF INTERMEDIATE AND SECONDARY EDUCATION  
MARDAN KHYBER PAKHTUNKHWA PAKISTAN**

S.No.MB. 074077

Roll No: 9893

Reg No: 5860-B/MP-2009

**PROVISIONAL AND DETAILED MARKS CERTIFICATE**  
**INTERMEDIATE (SUPPLY) EXAMINATION - 2010**  
**HUMANITIES ( Part-II )**

**FARAKH ZEB** Son/Daughter of **HAMAYUN KHAN**

of Institution/District **SWABI**

has secured the marks shown against each subject in the Higher Secondary School Examination held in the month of **OCTOBER/NOVEMBER** as **PRIVATE** Candidate.

Subjects	Marks	Marks Obtained				Total	Marks In Words
		Part-I		Part-II			
		Theory	Pract	Theory	Pract		
English	200	33	-	34	-	67	Sixty-Seven
Urdu	200	34	-	33	-	67	Sixty-Seven
Islamic Education	60	31	-	-	-	31	Thirty-One
Pakistan Studies	50	-	-	22	-	22	Twenty-Two
Islamic History	200	33	-	33	-	66	Sixty-Six
Civics	200	40	-	41	-	81	Eighty-One
Islamic Studies	200	65	-	48	-	103	One Hundred Three
<b>Total : 1100</b>						<b>437-E</b>	<b>Four Hundred Thirty Seven Only</b>
Remarks :							

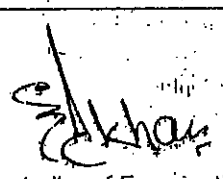
Prepared by :

Checked by :

Date of Declaration of Result: 30-12-2010

Date of Issue: 30-DEC-10

Note: Errors/Omissions are excepted. Any mistake in above particulars must be intimated within 30 days after declaration of result.

  
Controller of Examinations  
BISE, Mardan

S.No. 86577

Roll No. 188122



Board of Intermediate and Secondary Education  
Peshawar W.M.A. Pakistan

Secondary School Certificate Examination

SESSION 1999 - ANNUAL

(Humanities Group)

This is to Certify that Farakh Zeb Son / Daughter of Hamayun Khan  
and a resident of Swabi District has passed the Secondary School Certificate  
Examination of the Board of Intermediate and Secondary Education, Peshawar held in May/June 1999 as a Private  
candidate. He / She obtained 343 Marks out of 850 and has been placed in Grade D Representing Fair

The Candidate passed in the following subjects:

- |            |                     |                    |                    |
|------------|---------------------|--------------------|--------------------|
| 1. English | 3. Islamiyat        | 5. Mathematics     | 7. Islamic Studies |
| 2. Urdu    | 4. Pakistan Studies | 6. General Science | 8. Pashto          |

Date of birth according to admission form January 4, 1983

  
Assy. Secretary

  
Secretary

This certificate is issued without alteration or erasure

GG./98 No.

(13)

34405  
Board of Intermediate & Secondary Education  
PESHAWAR

DETAILED MARKS CERTIFICATE  
Secondary School Certificate Examination  
(GENERAL GROUP)

Session 19 99 (Annual/Supplementary)

Name Farah Zeb

Father's Name Hazrat Khan Roll No. 188/22

SUBJECT	Total Number of Marks Allotted	MARKS OBTAINED	
		In Figure	In Words
1. English	150	53	/
2. Urdu	150	63	
3. Islamiyat Comp.	75	41	
4. Pakistan Studies	75	37	
5. Mathematics	100	39	
6. General Science	100	39	
7. <u>CS</u>	100	38	
8. <u>Pa.</u>	100	33	
<b>Total</b>	<b>850</b>	<b>343</b>	

This Certificate is issued errors and omission excepted.

Prepared by: [Signature]


Checked by: [Signature]

Date 3/10 19 99

Controller of Examinations  
Board of Intermediate & Secondary Education  
Peshawar

S-A  
13169

Roll No. 189122

  
**BOARD OF INTERMEDIATE AND SECONDARY EDUCATION**  
**Peshawar N.W.F.P. Pakistan**  
**PROVISIONAL CERTIFICATE**  
**SECONDARY SCHOOL CERTIFICATE EXAMINATION**  
 Session 99 Annual/Supplementary

THIS IS TO CERTIFY THAT Farakh Zeb  
 Son/Daughter of Hamam Khan  
 and a candidate of Sulahi  
 has passed the Secondary School Certificate Examination of the  
 Board of Intermediate and Secondary Education, Peshawar held in March 99  
 as a Regular/Private candidate. He/She obtained 373 Marks out of 850 and has  
 been placed in Grade( D ) Representing Fans

The Candidate passed in the following subjects,

- |                |              |              |                     |
|----------------|--------------|--------------|---------------------|
| 1. English     | 2. Urdu      | 3. Islamiyat | 4. Pakistan Studies |
| 5. <u>Math</u> | 6. <u>SS</u> | 7. <u>IS</u> | 8. <u>PA</u>        |

Internal assessment Grade by the institution concerned is ( \_\_\_\_\_ )

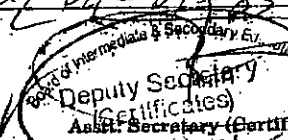
Date of birth according to admission form is fourth January

One thousand nine hundred and eighty three (1983)

Prepared by \_\_\_\_\_

Checked by \_\_\_\_\_

Date of Preparation 22/1/99

  
 Deputy Secretary  
 (Certificates)  
 Asstt. Secretary (Certificates)  
 Peshawar

13

S No. GCI/08/32978



# Global Computer Institute

AFFILIATED WITH BOARD OF TECHNICAL EDUCATION PESHAWAR

THIS IS TO CERTIFY



Mr. / Mrs. / Miss FARAKH ZEB S/o HUMAYUN KHAN

Has successfully completed a course of 1 Year/ Months/ hours Computer Course.

In the trade of MS WINDOWS MS WORD MS EXCEL MS POWERPOINT MS ACCESS

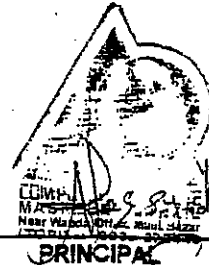
IN PAGE VISUAL BASIC MACROMEDIA FLASH HTML ADOBE PHOTOSHOP AND COREL DRAW

From 02-01-2008 To 10-01-2008



**GLOBAL COMPUTER INSTITUTE**  
Maskeen Manzil Near Wapda office,  
Main Bazar Topi NWFP. Contact:0938-272448

**DIRECTOR**  
Global Computer Institute  
Topi Bazar Swabi  
**DIRECTOR**



**PRINCIPAL**



15

12

11



Reg. No. SDC/GCI/25882

S. No. 32977

# Skill Development Council

**S. M. J. P. Peshawar**  
National Training Board (N.T.B.)  
Labour & Manpower Division  
Government of Pakistan



This is to certify that

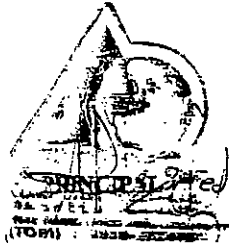
Mrs/Ms/Miss FARAKH ZEB Son/Daughter of HUMAYUN KHAN

Has successfully completed a special training course organized by the SDC Peshawar  
in the trade of MS WINDOWS, MS WORD, MS EXCEL, MS POWERPOINT, MS ACCESS, INPAGE & VISUAL BASIC  
held at GLOBAL COMPUTER INSTITUTE, TOPI


From 02-01-2008 To 04-07-2008

In recognition thereof this certificate is issued

On 18<sup>th</sup> day of MARCH 2009



  
SAJID MUHAMMAD JAVED  
CHAIRMAN  
SDC PESHAWAR

  
**OFFICE OF THE ASSISTANT DIRECTOR  
LOCAL GOVT. & RURAL DEVELOPMENT  
SWABI**

No. 139 /AD (SB -LG)/DPC

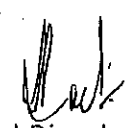
Dated Swabi, the 11 /02/2019.

To

All Naib Qasids,  
District Swabi.

Subject:- FINAL SENIORITY LIST OF NAIB QASID  
VILLAGE/NEIGHBOURHOOD COUNCILS, AS STOOD ON  
28-02-2019 OF DISTRICT SWABI.

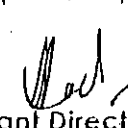
Enclosed find herewith a copy of Final Seniority List prepared under the Rules of Naib Qasids in respect of District Swabi with the remarks that reservations on the said list, if any may be conveyed to this office on or before 25<sup>th</sup> February 2019 for consideration/ settlement before final declaration thereof. In case no objection is received by the target date, it would be presumed that no individual has any objection on the tentative seniority list.

  
Assistant Director  
Local Govt. & Rural Dev: Deptt:  
Swabi.

Encls. Even No. & Date.

Copy to:-

1. The Director General, Local Govt. & Rural Development Deptt: Khyber Pakhtunkhwa, Peshawar:

  
Assistant Director  
Local Govt. & Rural Dev: Deptt:  
Swabi.

(Anam) "B"

(18)

(16)

(u)

B

OFFICE OF THE  
ASSISTANT COORDINATION OFFICER  
SWABI.

NOTIFICATION NO. 114 /AOO;

Dated 28/02/2007.

In exercise of powers conferred upon vide Govt; of NWFP, Local Govt; Notification No. SO(LG-I) 196/E.M/05 dated 25 July 2006 and resolution vide Govt; of NWFP, LGE & RDD letter No. SO(LG-I) 171/05 Vol IX dated 29.7.2006, NOC of Establishment department vide letter No. SOE, POOL (P&AD) 3-22/2002 dated 18.01.2007 and unanimous approval of the Selection Committee and fulfilment of all usual formalities the undersigned is pleased to appoint the following as Naib Qasids/against vacant posts in different Union Councils of the District:-

1. Ahrar Ahmed S/O Gul Raiz Khan R/O Jhanda.
2. Umar Farooq S/O Gul Saif R/O Jhanda.
3. Liaqat Ali S/O Bazwan R/O Ghani Chattr.
4. Sohrah Muhammad S/O Nidar Muhammad R/O Shah Mansoor.
5. Farrukh Zeb S/O Humayun Khan R/O Maini.
6. Mukhammad Shah S/O Hazrat Ali R/O Sadro Gadeem.
7. Muhammad Saifdar Khan S/O Sahib Zar Khan R/O Kaddi.
8. Muhammad Hanif S/O Mian Gul R/O Swabi Khas.
9. Muhammad S/O Rahimullah R/O Kernal Sher Killi.
10. Abdus Salam S/O Fazal Rehman R/O Bikandari.
11. Anjad Ali S/O Sakhi Muhammad R/O Jhanda.
12. Muhammad S/O Wali Ullah R/O Tarekat.
13. Anjad Ali S/O Salih Muhammad R/O Swabi.
14. Hussain Ahmed S/O Farooq Shah R/O Gohati.
15. Anjad Ali S/O Kanai Zar R/O Kalu Khan.
16. Muzaffar Khan S/O Ehsanullah R/O Tordher (Lahor)
17. Master Ali S/O Fasham Dax R/O Naranji.
18. Muhammad Quresh S/O Muhammad Jamil R/O Yaqubi.
19. Anif S/O Ghufuranullah R/O Tordher.
20. Sajid Khan S/O Abdul Karim Khan R/O Topi.

The terms and condition of their appointment are

1. Their services shall be on contract basis and shall be governed under the contract policy of the Govt; of NWFP.

(P/2)

PAGE # 18

OFFICE OF THE  
ASSISTANT COORDINATION OFFICER  
SWABI.

NOTIFICATION NO. 114/ACO;

Dated : 28/02/2007.

In exercise of powers conferred upon vide Govt; of NWFP, Local Govt; Notification No. SO(LG\_I)..-196/E.M/05 dated 25 July 2006 .....Vide Govt; of NWFP, LGE & RDD letter No.SO(LG\_I) a-71/05 Vol II dated 29.7.2006, NOC of establishment department vide letter No. SOS, POOL (E&AD) 3-22/2002 dated 18.01.2007 and unanimous approval of the collection committee and fulfillment of all ..... Formalities the undersigned is pleased to appoint the following as Naib Qaaida/against vacant posts in different union Counsels of the District.

1. Abrar Ahmad S/o Gul Riaz Khan R/o Jhanda.
2. Umar Farooq S/o Gul Said R/o Jhanda.
3. Liaqat Ali S/o Bazwan R/o Ghani Chatra.
4. Sohrab Muhammad S/o Nidar Muhammad R/o Shah Mansoor.
5. Farukh Zeb S/o Humayoun Khan R/o Malni.
6. Mukammil Shah S/o Hazrat Ali R/o Sadre Qadeem.
7. Muhammad Safdar Khan S/o Sahib Zar Khan R/o Kaddi.
8. Muhammad Hanif S/o Mian Gul R/o Swabi Khas.
9. Imranullah S/o Rahimullah R/o Kamal Sher Killi.
10. Abdus Salam S/o Fazal Rehman R/o Sikandari.
11. Amjad Ali S/o Sakhi Muhammad R/o Jhanda.
12. Inamullah S/o Wali Ullah R/o Tarakai.
13. Amjad Ali s/o Salih Muhammad R/o Swabi.
14. Hussain Ahmad S/o Farooq Shah R/o Cohati.
15. Jawad Ali S/o Kamal Zey R/o Kalu Khan.
16. Muzafar Khan S/o Ehsanullah R/o Tordher (Lahor).
17. Master Ali S/o Pasham Dar R/o Naranji.
18. Muhammad Quresh S/o Muhammad Jamil R/o Yaqubi.
19. Asif S/o Ghufuranullah R/o Tordher.
20. Amjad Khan S/o Abdul Rahim Khan R/o Topi.

The terms and condition of their appointment are:

1. Their services shall be on contract basis and shall be governed under the contract pulley of the Govt. of NWFP.

(10) (19) (5)

2. They will not be entitled to pension and gratuity. However, they will be entitled to C.F. Fund.
3. They will produce medical fitness certificate from M.S. DHQ Hospital Swabi.
4. Their services will be purely on temporary basis and shall be liable to termination without any reason or prior notice.
5. They will assume charge in the office of the undersigned and will be later on posted in different Union Councils against vacant posts.
6. They will take charge within 15 days from the date of this order.
7. All relevant services rules currently in practice or as amended by the Govt. of NWFP from time to time will be applicable on them.

Muzaffar Khan  
11/03/2007

( MUZAFFAR KHAN )  
ASSISTANT COORDINATION OFFICER  
SWABI.

MS No 1400

Dated 28/02/2007

Copy forwarded to:-  
 1. Secretary to Govt; of NWFP, Local Govt; Elections  
 Department, Peshawar.  
 2. Assistant Accounts Officer Swabi.  
 3. Superintendent DHQ Hospital Swabi.  
 4. Swabi.  
 All offices.

Muzaffar Khan  
11/03/2007

( MUZAFFAR KHAN )  
ASSISTANT COORDINATION OFFICER  
SWABI.

2. They will not be entitled to pension and gratuity. However, they will be entitled to C.P.Fund.
3. They will produce medical fitness certificate from M.S SHQ Hospital Swabi.
4. Their services will be purely on temporary basis and shall be liable to termination without any reason or prior notice.
5. They will assume charge in the office of the undersigned and will be liable on posted in different union council in against vacant notice.
6. They will take charge within 15 days from the date issuance of this order.
7. All relevant services rules currently in practice or amended by the Govt. of NWFP from time to time will be applicable on them.

(MUZAFFAR KHAN  
ASSISTANT COORDINATION OFFICER  
SWABI.

115-40/ACO.

Dated: 28/02/2007

Copy forwarded to :-

- The Secretary to Govt. of NWFP, Local Govt: Elections and Rural Days Department, Peshawar.
- The District Accounts Officer Swabi.
- Medical Superintendent DHC Hospital Swabi.
- The Zilla Nazim Swabi.
- All selectees.

(MUZAFFAR KHAN  
ASSISTANT COORDINATION OFFICER  
SWABI.

(Annex) 'C'

(Archer)

(20)

(Archer)

FINAL SENIORITY LIST OF NAIB QASID OF VILLAGE / NEIGHBOURHOOD COUNCILS IN TEHSIL TOPI DISTRICT SWABI AS STOOD ON 28/02/2019.

S. No	Name of Official	Date of Birth	Date of appointment in BPS	Qualification	Remarks
1	Shah Wars	1/3/1905	19/3/1995		Appointed as Chokidar in AD Office & adjusted as Naib Qasid U.C in 2001
2	Farukh Zeb	4/1/1963	28/2/2007	FA	Initial appointment as Naib Qasid
3	Liaqat Zaman	6/4/1988	28/2/2007	FA	Initial appointment as Naib Qasid
4	Sajid Zaman	1/1/1975	17/3/2009		Initial appointment as Naib Qasid
5	Zarif Khan	17/1/1974	4/2/2016		Initial appointment as Naib Qasid
6	Islam Farooq	10/10/1980	4/2/2016	Metric	Initial appointment as Naib Qasid
7	Abdul Rahim	8/4/1981	4/2/2016	Metric	Initial appointment as Naib Qasid
8	Dakht Zada	10/4/1981	4/2/2016	FA	Initial appointment as Naib Qasid
9	Muhammad Naeem	10/1/1982	4/2/2016	BA	Initial appointment as Naib Qasid
10	Muhammad Farooq	5/8/1982	4/2/2016	MA	Initial appointment as Naib Qasid
11	Ranizan	10/1/1/1982	4/2/2016	MA	Initial appointment as Naib Qasid
12	Muhammad Ali	22/2/1983	4/2/2016		Initial appointment as Naib Qasid
13	Alzal Amin	2/4/1983	4/2/2016		Initial appointment as Naib Qasid
14	Muhammad Arshad	1/1/1985	4/2/2016	Metric	Initial appointment as Naib Qasid
15	Wajid Khan	20/4/1987	4/2/2016	FA	Initial appointment as Naib Qasid
16	Wahid U. Ranman	4/4/1988	4/2/2016	Metric	Initial appointment as Naib Qasid
17	Saleem Bahadar	8/2/1989	4/2/2016		Initial appointment as Naib Qasid
18	Khair Ul Bashir	12/2/1990	4/2/2016	FA	Initial appointment as Naib Qasid
19	Hansar Ali	2/4/1990	4/2/2016		Initial appointment as Naib Qasid
20	Muhammad Bilal	6/4/1990	4/2/2016	BA	Initial appointment as Naib Qasid
21	Tahir Ralman	9/6/1990	4/2/2016	Metric	Initial appointment as Naib Qasid
22	Gul Nawab Shah	19/3/1991	4/2/2016	Metric	Initial appointment as Naib Qasid
23	Bakhtiar Amin	15/4/1993	4/2/2016	FA	Initial appointment as Naib Qasid
24	Shahid	11/4/1994	4/2/2016	Metric	Initial appointment as Naib Qasid
25	Muhammad Aizaz	15/4/1994	4/2/2016	FA	Initial appointment as Naib Qasid
26	Muhammad Sorab	24/04/1994	4/2/2016		Initial appointment as Naib Qasid
27	Inayat ur Rehman	1/1/1995	4/2/2016		Initial appointment as Naib Qasid
28	Junaid Khan	10/1/1995	4/2/2016		Initial appointment as Naib Qasid
29	Muhammad Ayaz	20/2/1996	4/2/2016	FA	Initial appointment as Naib Qasid
30	Nizar Ali	8/3/1994	19/2/2018		Initial appointment as Naib Qasid
31	Adil Khan	17/3/1999	19/2/2018		Initial appointment as Naib Qasid

Assistant Director  
LG & R D D Swabi

(20) (21) (Answer) "D"

Government of Khyber Pakhtunkhwa  
Local Government, Elections and Rural Development Department

**NOTIFICATION**

Dated Peshawar, the 3<sup>rd</sup> December, 2015/2067

No.SO(L.G-1)2-188/89.- In exercise of the powers conferred by sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Local Government, Elections and Rural Development Department in consultation with the Establishment Department and Finance Department is pleased to direct that in this Department notification No.DG(RWP)7(2)/73, dated 26-01-1978, the following further amendments shall be made namely:

**AMENDMENTS**

In the Appendix:-

(a) for serial No.16, the following shall be substituted, namely"

16.	Village Secretary (BPS-7)	Intermediate or equivalent qualification from a recognized Board and at least six (6) months Certificate in Computer from a recognized Institute with expertise in MS-Office, In-page and Internet. The candidate shall be preferably a bonafide resident of the same Village / Neighbourhood Council. If such candidate is not available in the same Village / Neighbourhood then candidate from adjacent Village / Neighbourhood Council. If not available then from the respective Tehsil.	18 to 30 years	By initial recruitment
-----	---------------------------	---	----------------	------------------------

(b) after serial No.19, the following new entries shall be added in the respective columns:

20.	Naib Qasid / Cowkidar (BPS-1)	Physically sound, preferably literate	18 to 40 years	By initial recruitment
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DD(A)  
[Signature]

SECRETARY TO GOVERNMENT OF  
KHYBER PAKHTUNKHWA, L.G.E&RDD

Div(A/He)  
[Signature]



Section Officer (Sub)  
(17AZ 21224)  
Phone # 091-9213224

- 1 All District Sessions Judges in Khyber Pakhtunkhwa.
  - 2 The Secretary, Government of Khyber Pakhtunkhwa.
  - 3 The Secretary, District Administration, Peshawar.
  - 4 The Secretary, District Administration, Peshawar.
  - 5 The Secretary, District Administration, Peshawar.
  - 6 The Secretary, District Administration, Peshawar.
  - 7 The Secretary, District Administration, Peshawar.
  - 8 The Secretary, District Administration, Peshawar.
  - 9 The Secretary, District Administration, Peshawar.
  - 10 All District Sessions Judges in Khyber Pakhtunkhwa.
  - 11 All District Sessions Judges in Khyber Pakhtunkhwa.
  - 12 The Secretary, District Administration, Peshawar.
- Copy is being sent to the following offices for their information and necessary action. 40 copies of the Notification may be sent to this office.

Copy is being sent to the following offices for their information and necessary action. 40 copies of the Notification may be sent to this office.

(Handwritten signatures and initials)

13

Amrullah

38

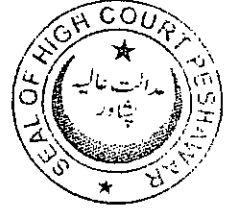
**JUDGMENT SHEET  
PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT**

W.P.No. 4572-P/2019

Farukh Zeb

Vs

Government of Khyber Pakhtun Khwa through Chief Secretary,  
Peshawar and others



Date of hearing 24.02.2021

Petitioner (by) Mr. Asad Zeb Khan, Advocate

Respondents (by) Mr. Rab Nawaz Khan, AAG

**JUDGMENT**

**MUHAMMAD NASIR MAHFOOZ, J.** Through this single judgment, we intend to dispose of two connected writ petitions, having common question of law and facts involved therein. The particulars and prayers of the same are as under:-

***1. W.P.No. 4572-P/2019 (Farukh Zeb Vs. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others).***

*"It is, therefore, most respectfully prayed that on acceptance of this petition, this Hon'ble Court may very graciously be pleased to:*

- i. Declare the impugned Notification dated 05.04.2018 to the extent of mentioning 2<sup>nd</sup> division SSC and Notification dated 16.10.2019 by inserting six months diploma in I.T. as illegal, unlawful discriminatory, void ab initio, ultra vires and nullity in the eyes of law.*
- ii. Direct the respondents to give equal right of promotion to the petitioner for the posts of Junior Secretary village/ neighborhood council.*
- iii. Direct the respondents to increase the promotion quota at par with the establishment department i.e. increase the promotion quota from 20% to 40%.*

*RAH*

**ATTESTED**

**EXAMINER  
Peshawar High Court**

(14) (39)

iv. Any other relief, though not specifically asked for, deems appropriate may also be granted.

2. *W.P.No. 4497-P/2019 (Muhammad Farooq Vs. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others)..*

*It is, therefore, most respectfully prayed that on acceptance of this petition, this Hon'ble Court may very graciously be pleased to:*

i. *Declare the impugned Notification dated 05.04.2018 to the extent of mentioning 2<sup>nd</sup> division SSC and Notification dated 16.10.2019 by inserting six months diploma in I.T. as illegal, unlawful discriminatory, void ab initio, ultra vires and nullity in the eyes of law.*

ii. *Direct the respondents to determine the seniority of the petitioner as per their date of appointment and date of birth.*

iii. *Direct the respondents to promote the petitioner after applying round up formula as per FR-17.*

iv. *Direct the respondents to promote the petitioner in light of fresh seniority list and after declaration of impugned notification dated 05.04.2018 to the extent of mentioning 2<sup>nd</sup> Division SSC and Notification dated 16.10.2019 to the extent of mentioning six months diploma in computer as null and void.*

v. *Direct the respondents to give equal right of promotion to the petitioner for the posts of Junior Secretary Village/Neighborhood Council.*

vi. *Direct the respondents to increase the promotion quota at par with the establishment department i.e. increase the promotion quota from 20% to 40%.*

vii. *Any other relief, though not specifically asked for, deems appropriate may also be granted.*

3. Brief facts of the case as per contents of the writ petitions are that petitioners were appointed as Naib Qasid in the respondent department and are still serving as such. It is alleged that respondent No.2 vide notification dated 03.12.2015 made certain changes in respect of filling up post

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**ATTESTED**  
**EXAMINER**  
Peshawar High Court

15  
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of Village Secretary (BPS-07), vide which, the required qualification for the post in question is Intermediate with at least 06 months computer certificate, having no quota reserved for Class-IV employees. It is further alleged that respondents, vide impugned notification dated 05.04.2018, reserved 20 % quota for promotion from the post of Naib Qasid to the post of Junior Village Secretary having 2<sup>nd</sup> Division in Secondary School Certificate (SSC). Petitioners, feeling aggrieved from impugned notification dated 05.04.2018 & promotion order dated 13.06.2019, have filed the instant Constitutional Petitions.

4. Respondents submitted their comments, wherein they have raised several legal and factual objections. The primary objection which was also raised by the learned AAG at the bar relates to maintainability of the instant petitions on the touchstone of Article 212 of the Constitution as the subject matter relates to relief seeking promotion.

5. We have heard learned counsel for the petitioners as well as learned AAG on behalf of the respondents and have perused the documents available on the file.

*B. Singh*

**ATTESTED**  
**EXAMINER**  
Punjab High Court

(41)

6. Admittedly, the petitioners are civil servants and their grievances relate to the terms and conditions of service, so, the appropriate remedy for seeking their redressal would surely be the Services Tribunal, as there is a complete and absolute bar in considering any matter relating to the terms and conditions of service of a civil servant in a constitutional petition. The Apex Court has also laid down salutary principles for hearing relating to the 'terms and conditions' of service in constitutional jurisdiction under Article 199 being barred under Article 212 of the Constitution.

7. In view of the above, this and the connected writ petition are dismissed being not maintainable.

JUDGE

JUDGE

Announced  
24.02.2021

2604  
 Date of Presentation of Application: 27/2/21  
 No of Pages: 27  
 Copying Fee: 480  
 Total: 6213/02  
 Date of Preparation of Copy: 02/3/21  
 Date of Delivery of Copy:  
 Received By: *[Signature]*  
 Shaheed Ali, CS

CERTIFIED TO BE TRUE COPY

EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 87 of  
The Qanun-e-Dhanda Order 1984

02 MAR 2021

GOVT: OF KPK
Diary No <u>1919</u>
Date <u>12-3-21</u>
L. O. E & RDU

*Amir* *K*  
*(42)*

To

The Hon'ble Secretary,  
Local Govt. & Rural Development Department,  
Khyber Pakhtun Khwa, Peshawar.,

Subject: Departmental appeal against the impugned notification dated: 05-04-2018 vide which promotion rules have been amended.

{Through Proper Channel}

Respected Sir,

With profound respect, the appellant most humbly submits as under:

1. **Because** the impugned notification dated: 05-04-2018 are discriminatory, against law, facts, hence liable to be set-aside to the extent of having 2<sup>nd</sup> Division SSC.
2. **Because** the impugned notifications dated: 05-04-2018 are illegal, unlawful, void ab initio, ultra vires and beyond the authority of its maker, hence liable to set at naught.
3. **Because** it has been held by the Superior Courts of Pakistan in plethora of judgments that the Govt. can't make or amend any service rules which put negative impact upon the employees or which is hurdle in their performance and promotion. {2006 SCMR 243 copy attached}
4. **Because** the impugned amendment is in utter disregard to the principles of the fairness; merit and transparency passed/issued the impugned notification dated: 05-04-2018 wherein for promotion to the post of Junior Secretary condition of having atleast 2<sup>nd</sup> Division SSC was inserted, hence the impugned notification is against the law, illegal, unlawful and void ab initio and liable to be turned down.
5. **Because** the establishment department while amending their service rules for their own employees, gave them a caution period of 4 years and decided that the new rules shall not be applied to the existing matriculate employees for four years, but in case of appellant, no such caution has been given, hence the same is discriminatory. {Copy of notification dated: 18-07-2019 attached}
6. **Because** the establishment department while amending their service rules increased promotion quota from 33% to 40% but at the time of amending service rules for appellant's department, the establishment departmet intentionally decreased the same. Malafide is apparent.

*Amir*  
*(42)*

7. **Because** in the establishment department rules, only F.A/F.Sc is the requirement for promotion to the post of Junior Clerk and no 2<sup>nd</sup> or 3<sup>rd</sup> division is required while at the time of framing rules for appellant's department, condition of 2<sup>nd</sup> class SSC was inserted which is again discrimination for the appellant.
8. **Because** in a similar nature case of Ismail Shah Vs Secretary Khyber Pakhtunkhwa Text Book Board (W.P No. 2554/2011 decided on 08-04-2013), the Hon'ble Peshawar High Court, Peshawar was pleased to directed the Board to amend their service rules just like the rules of Establishment and Administration Department in vogue, so when the establishment department is giving caution period to their existing employees then why the Local Govt. Department is reluctant to do so. Discrimination is apparent. {Copy of order dated: 08-04-2013 attached}
9. **Because** the appellant has been treated unfairly, discriminatory and the initiative of the department is based on malafide. Through the impugned service rules, 2018, class-IV employees of the department having 3<sup>rd</sup> Division has been denied promotion, which is unwarranted.
10. **Because** in a similar nature issue, the august Lahore High Court, Lahore had already turned down policy of inserting ineligibility of 3<sup>rd</sup> Divisioners in the rules.
11. **Because** the basic qualification for appointment to the post of Junior Secretary Village / Neighborhood Council is intermediate by initial recruitment and there is no such condition of 2<sup>nd</sup> or 3<sup>rd</sup> Division in SSC is mentioned but in the case of promotion to the said post, condition of having 2<sup>nd</sup> Division SSC has been laid down, which is disadvantages to the class-IV employees with 3<sup>rd</sup> Division.
12. **Because** the recruitment/promotion criteria promulgated through the impugned notification is issued with ulterior motive just to accommodate the blue eyed, therefore, the same are illegal and such practice adversely affects efficiency of incumbents and also reduces the confidence and faith of the appellant and others, hence the impugned notification referred above is liable to be struck down on this score also.
13. **Because** the appellant had been made victim of discrimination, demerits, partiality and favoritism without any just and reasonable cause thereby offending the fundamental rights of the appellant as provided by the constitution of 1973, hence the impugned notifications detailed above is liable to be set at naught.

14. **Because** the present impugned notifications are illegal, illogical, against facts, without jurisdiction and suffering from material irregularity, hence the same is untenable and liable to be struck down.
15. **Because** through the impugned notification, the departmental authorities have promoted certain Naib Qasid to the post of Junior Secretary who are junior in seniority to the appellant.
16. **Because** the departmental authorities erroneously exercised their powers against judicial principle, and have passed the impugned notifications and opened a new pandora box in clear violation of Service law, hence, the said impugned notifications are liable to be declared as illegal and unlawful and liable to be struck down.
17. **Because** the appellant for the redressal of his grievances, approached the Hon'ble Peshawar High Court and the Hon'ble Court was pleased to direct the appellant to approach the departmental authority for challenging the impugned rules, hence the instant appeal.
18. **Because** due to the impugned notifications, the seniority of the appellant has been disturbed, it is, therefore, respectfully prayed that while declaring the impugned notifications regarding amending service rules as ultra vires, the seniority of the appellant may kindly be restored and the appellant may kindly be given promotion in accordance with law.
19. **The** appellant craves for leave to raise additional grounds at the time of personal hearing.

Dated: 11-03-2021

Appellant



Farukh Zeb S/O Humayun Khan,  
Naib Qasid, Topi (Rural, RBC &  
RVC) Local Govt. & Rural  
Development Department, District  
Swabi





GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

Dated Peshawar, the 18<sup>th</sup> July, 2019

**NOTIFICATION**

**No.SOE.IV(E&AD)/1-35/2014:-**

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, the Establishment and Administration Department, in consultation with the Finance Department, is hereby directs that in this Department's Notification No.SOE.IV (E&AD)/1-35/2012 dated 6<sup>th</sup> December, 2012, the following amendments shall be made, namely:

**AMENDMENTS**

In the APPENDIX, for Serial No.4, the following shall be substituted, namely:

1.	2.	3.	4.	5.
4.	Junior Clerk.	(i) FA/ F.Sc with second division or equivalent qualification from a recognized Board; and  (ii) a speed of thirty (30) words per minute in typing.	18 to 30 years.	(a) Forty per cent by promotion, on the basis of seniority-cum-fitness, from amongst Daftaris, Gestetner Operators, Qasids and Naib Qasids including holders of other equivalent posts in the Secretariat with two years service as such, who have passed FA/F.Sc Examination or its equivalent qualification from a recognized Board; and  (b) sixty per cent by initial recruitment.  <b>Note:</b> For the purpose of promotion, there shall be maintained a common seniority list of Daftaries, Gestetner Operators, Qasids, Naib Qasids etc. with reference to the dates of their acquiring the FA/ F.Sc qualification:

Handwritten notes: "D", "11", "Annex = 7", and a circled "45".

Handwritten mark: a circled "20".

10

(Signature)

(46)

1.	2.	3.	4.	5.
				<p>Provided that-</p> <p>(i) if two or more officials have acquired the FA/F.Sc qualification in the same session, the inter se seniority in the lower post shall be maintained for the purpose of determining seniority in the higher post;</p> <p>(ii) where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or officials:</p> <p>Provided further that The condition of FA/F.Sc or its equivalent qualification from a recognized Board, as laid down at clause (a) shall not apply for a period of four years from the date of commencement of this Notification to the existing matriculate incumbents of the post of Daftaris, Gestetner Operators, Qasids and Naib Qasids including holders of other equivalent posts for promotion to the post of Junior Clerk (BS-11)."</p>
QW				

CHIEF SECRETARY  
KHYBER PAKHTUNKHWA

Endst: No. SOE-IV(E&AD)/1-35/2014. dated 18<sup>th</sup> July, 2019

Copy forwarded for information and necessary action to: -

1. All Administrative Secretaries to Government of Khyber Pakhtunkhwa, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
2. The Senior Member of Board of Revenue.
3. The Principal Secretary to Governor, Governor's Secretariat, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary, Khyber Pakhtunkhwa Public Service Commission.
7. Deputy Director (IT), Establishment & Administration Department with the request to upload on the official website.
8. PS to Chief Secretary Khyber Pakhtunkhwa.
9. PS to Secretary Establishment Department,
10. PS to Special Secretary (Estt), Establishment Department.
11. PS to Special Secretary (Reg), Establishment Department.
12. PA to Addl: Secretary (Est/Reg), Establishment Department.
13. PA to Addl: Secretary (HRD Wing) Establishment Department.
14. All the Deputy Secretaries in Establishment Department.
15. All Section Officers, Establishment Department, Khyber Pakhtunkhwa Peshawar.
16. The Manager Government Printing Press for publication in the Extra Ordinary Gazette with the request to provide 50 copies of Gazette.

  
(HAZRAT JAMAT)  
SECTION OFFICER (E-IV)

(34)

**ANNEXURE**

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR**

(35) (Amended) M

In Ref; to W.P No. 2554 /2011. (48)

Ismail Shah S/O Rahim Shah R/O Mohallah Sharif Abad, Shaheen Muslim Town Peshawar Presently working and Posted as Naib Qasid (BPS-2), Text Book Board Khyber Pakhtunkhwa Peshawar..... PETITIONER.

**VERSUS**

1. Secretary, Khyber Pakhtunkhwa Text Book Board, Phase-5 Hayat abad Peshawar.
  2. Khyber Pakhtunkhwa Text Book Board through its Chairman, Phase-5 Hayat Abad Peshawar.
  3. Controlling Authority, Khyber Pakhtunkhwa Text Book Board through the Chief Secretary, Civil Secretariat Peshawar.
- .....RESPONDENTS.

**WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF THE ISLAMIC REPUBLIC  
OF PAKISTAN 1973 AS AMENDED UP-TO DATE**

**PRAYERS IN WRIT PETITION.**

On acceptance of this Writ Petition the respondents be directed to design and formulate the Service Promotion/Recruitment Policy on the bases of seniority cum fitness and to ensure the fixation of 33% quota for promotion/Recruitment as Junior Clerks from amongst in-service employees, Daftaries, Qasid, Nibe Qasid, including other equivalent posts in the Text Book Board KPK Peshawar, enabling the petitioner, being eligible and deserving candidate, to be promoted/recruited as Junior Clerk and to get equal treatment like other government employees working in Secretariat, Govt;/semi Govt; departments or other autonomous bodies.

**ATTESTED TO BE  
TRUE COPY**

M

14 SEP 2011

JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT  
JUDICIAL DEPARTMENT.

Writ Petition ..... No. ....2554.....of.....2011

**J U D G M E N T**

Date of hearing: 02.04.2013 Date of Announcement 08.04.2013

Petitioner(s): Ismail Shah by M2. Muhammad Usman Khan  
Tuzlandi, Adv.

Respondent(s): Secy KPK Text Book Board etc. Ms. Fazlur  
Rehman Khan, AAG & M2. Abdul Hamid Khan, Adv.

**MAZHAR ALAM KHAN MIANKHEL, J.-**

By this single judgment, we propose to decide Writ Petitions No.2554 & 2568 of 2011, wherein, Ismail Shah and Fazal Amin, petitioners in both the petitions, have challenged the vires of the Service Promotion / Recruitment Rules / Policy of the Text Book Board, Peshawar. They have also asked for the issuance of an appropriate writ directing the respondents to amend / redesign the rules / policy of the Text Book Board on the basis of seniority-cum-fitness by ensuring fixation of 33% quota for promotion / recruitment as Junior Clerks from amongst in-service employees with the further prayer that they be treated at par with the other employees, working in Civil Secretariat / Semi-Government Departments or other Autonomous / Semi-Autonomous Bodies.

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(34) (36) (50)

2. The learned counsel appearing on behalf of the petitioners contended that when the petitioners were not only eligible, qualified and experienced ones but also fit for promotion to the posts of Junior Clerks, then how the respondents by ignoring them for promotion or recruitment there-against, could advertise the aforesaid posts in the daily newspapers, that too, when in the other government departments / autonomous or semi autonomous bodies, a proper criteria for promotion and recruitment has been laid down and they, in its letter and spirit, follow the same. The learned counsel next contended that the respondents by not following the aforesaid criteria / rules of the government, not only deprived the petitioners from their due rights of promotion but also violated the Constitution of Islamic Republic of Pakistan, 1973.

3. As against that, the learned counsel appearing on behalf of the respondents argued that since the Text Book Board is a statutory body, having its own rules / regulations, duly approved by the Government, there is no need to follow the rules of the other sister organizations / departments, The learned counsel further argued that if the petitioners are highly qualified and also experienced persons, they were required to follow the law by applying for the aforesaid posts, already advertised, and compete there-against without taking any shelter under the umbrella of other organizations' rules, which

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are not applicable to the Text Book Board because, as per regulation / rules / law in vogue, the posts of junior clerks are to be filled-in by initial recruitment and not by any other means, therefore, this petition is not only based on concealment of facts but also filed with the intention to disgrace the repute of the organization, from where, the petitioners are earning their livelihoods, liable to be dismissed with heavy costs.

4. We have gone through the record carefully and considered the submissions made by the learned counsel for both the parties.

5. The perusal of the available record would reveal that the petitioners being employees of Text Book Board, Peshawar have asked for promotion to the next higher grade but the existing rules of the Board are stumbling block in their way to get the relief, asked for. The services of the employees of the Board are regulated by the North West Frontier Province (Now Khyber Pakhtunkhwa) Text Book Employees Regulations, 1972. The method of recruitment for the posts of Junior Clerks given in the appendix, attached to the Regulations, 1972 would reveal that the posts of Junior Clerks would be recruited through initial appointment and not by way of promotion. The word 'promotion' is not alien to the service laws through out the world. Its object is betterment of the existing employees and an incentive for hard work. It is

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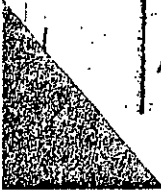
(7/8) (3/30) (S.P.)

defined in O & M Establishment Manual as the advancement of an official from a lower to higher post or grade against a vacancy, specifically reserved for such advancement under the relevant recruitment rules. But the promotion, as under the established law, can't be claimed as of right and the recognized criteria for the same is nothing less than seniority-cum,-fitness. If an employee of a department / organization being senior and fit person can only be considered for promotion. But the Rules of an employer if block the way of competent and eligible employees from promotion, then it would create disappointment and also would be a sort of discrimination that if a similarly placed person is inducted from outside by way of initial recruitment and the available and eligible experienced person is ignored, that too, on the basis of Rules / Regulations, then such Rules / Regulations can't be said to be in accordance with law and the Constitution. This will create heartburning of the existing employees and will destroy their eagerness to do more and will also affect their competency. Rules and Regulations are always made for advancement and betterment of employees or a group of persons to regulate their matter and not deprive them discriminatively.

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6. It is not disputed before us that the Text Book Board was the need of employees / workers, that's why, its competent authority made advertisement in the daily

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newspapers for the subject posts including Steno typist. When so, why the Text Book Board authorities are not ready and ✓ reluctant to consider their own employees in this regard, that too, when they, apparently, are highly qualified, eligible and also having experience in the department, so, we, think that there should be something for them to keep them working ✓ with zeal and zest and preference may be given to them. But, since there is no provision in the existing rules / regulation to fill-up the posts from amongst the serving employees, we think, that it is unfair and unjust for the employees of any government / organization to be ignored from their due right of promotion, simply on the ground, that no provision ~~is~~ there in the existing rules. Rules can be amended for betterment of ✓ the employees.

7. Be all that as it may, once the other government organizations / departments make appointments by fixing a quota for promotion of their employees and remaining by way of initial recruitment then, there is no legal bar on the amendment of the existing rules of the Text Book Board, which, on the face of it, are discriminatory in nature. In this view of the matter; we, without dilating upon the merits of the case, direct the respondents to amend the relevant / existing rules qua promotion / recruitments / appointment of the Text

Book Board just like rules in vogue of the Establishment and ✓  
 m-7 Administration Department and other autonomous and semi

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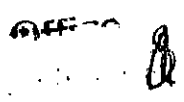
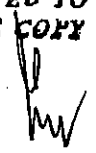
autonomous bodies in order to eliminate the anomaly,  
highlighted above. These writ petitions are disposed of in the  
above terms.

Announced.  
08.04.2013

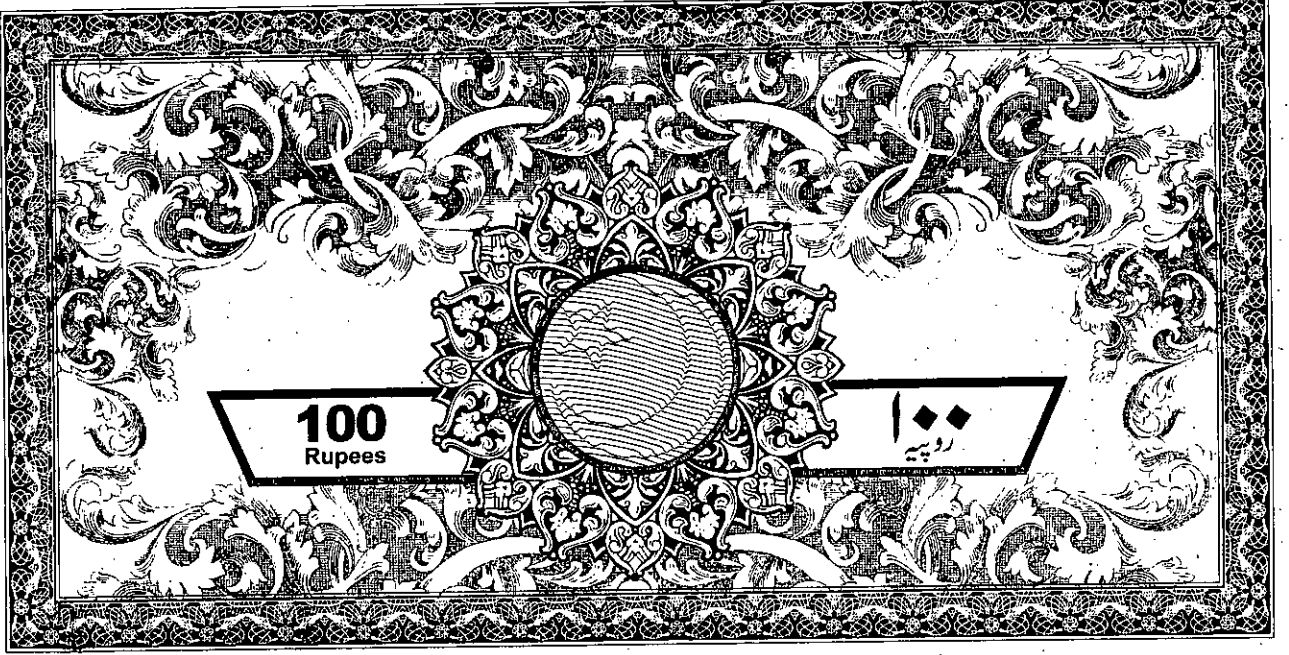
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(Fayaz)



## بعدالت جناب سروسز ٹریونل خیبرپختونخوا پشاور

﴿ مختار نامہ خاص بابت پیروی مقدمہ ﴾

حکومت خیبر پختونخوا وغیرہ

بنام

فرح زیب

منکہ مسمی فرح زیب ولد ہمایون خان ساکن گڑھی خدر خان خیل مینٹی تحصیل و ضلع صوابی اختیار دہندہ بذریعہ

تحریر ہذا مقرر ہوں کہ بعنوان بالا مقدمہ میں من مقرر اختیار دہندہ کی حیثیت سائل کی ہے چونکہ بعض دیگر

ناگزیر وجوہات کی بناء من مقرر مقدمہ ہذا کی پیروی سے قاصر ہوں اس لئے بدیں وقت مسمی افتخار احمد ولد

ہمایوں خان ساکن گڑھی خدر خان خیل مینٹی ڈاکخانہ خاص تحصیل و ضلع صوابی کو اپنی جانب سے مختار خاص

مقرر کر کے اختیار دیتا ہوں کہ مختیار موصوف من اختیار دہندہ مذکورہ کی جانب سے میری غیر موجودگی میں

مقدمہ بعنوان بالا میں جملہ کارروائی بذات خود وہ دستخط خود سر انجام دیوئے درخواست گزارے نقولات

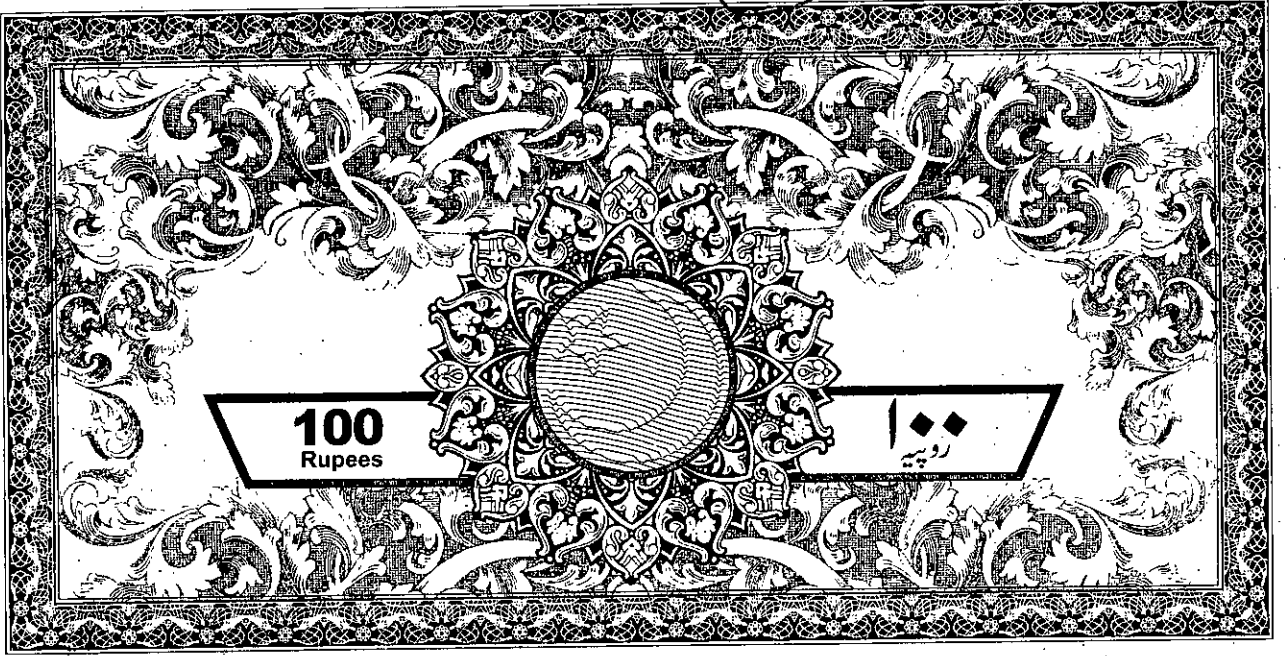
مقدمہ حاصل کرے تائید و تردید و تصدیق کرے جواب دعویٰ و اقبال دعویٰ وغیرہ پیش کرے بیان دیوئے

مقدمہ میں وکیل مقرر کرے گواہان اور ثبوت پیش کرے بصورت فیصلہ اپیل ڈگری درخواست اجراء دائر

کرے بصورت اخراج مقدمہ اپیل انگریزی کرے اجراء جمع کرے ہم مقرر ان کی طرف سے وکالت

نامہ پر دستخط / انگوٹھا ثبت کرے راضی نامہ کرے یا دیگر متفرق قسم کی پیشکش بالا عدالت عالیہ تاعداالت عظمیٰ

سپریم کورٹ میں دائر کرے الغرض موصوف مقدمہ کی جملہ کارروائی میں منفرد آیا مشترکاً حصہ لے جو کہ من مقرر



کو قبول اور منظور ہوگا، مختیار نامہ لکھ دیا کہ سندر ہے۔

المرقوم: 05/07/2021

لہذا مختیار نامہ رو بروئے گواہان حاشیہ سنداً تحریر شد

**اختیار گریندہ:**

**اختیار دہندہ:**

العبد  
افتخار احمد

العبد  
فرح زیب

شناختی کارڈ نمبر 9-16202-0935357

شناختی کارڈ نمبر 5-16202-7083570

گواہ شہد

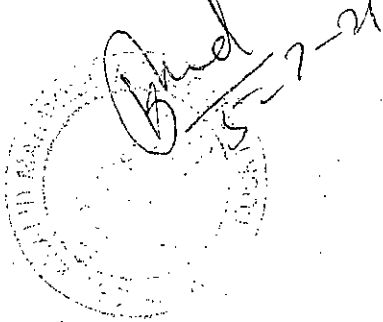
گواہ شہد

2- عبدالحنان ولد عبدالرازق

1- محمد فاروق ولد ہمایوں خان

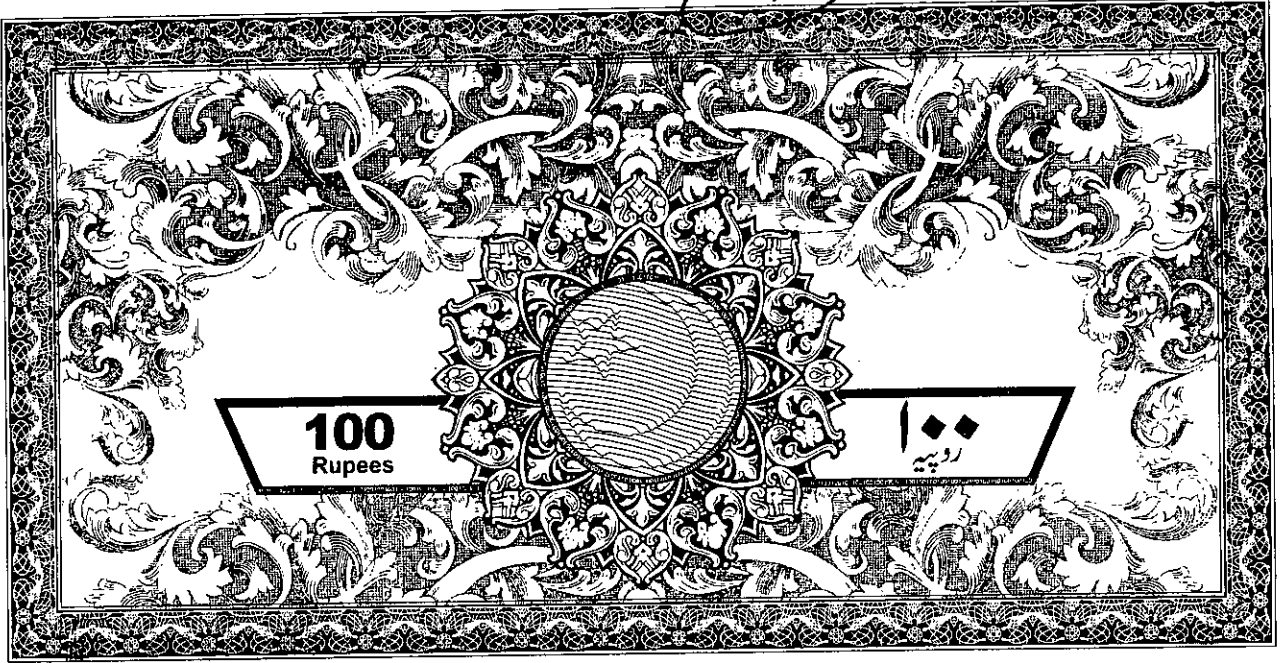
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شناختی کارڈ نمبر 5-16202-0932424



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Handwritten signature in Urdu script, likely reading 'S. M. Khan'.

Endst: No.SO(LG-D)2-...../2015

Dated Peshawar the, 3<sup>rd</sup> December, 2015

Copy is forwarded to:-

1. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
2. All Divisional Commissioners in Government of Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
4. The PSO in Chief Minister, Khyber Pakhtunkhwa, Peshawar.
5. The Director General, LG & RDD, Khyber Pakhtunkhwa, Peshawar.
6. The Secretary, Khyber Pakhtunkhwa Public Service Commission Peshawar.
7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
8. All Deputy Commissioners in Khyber Pakhtunkhwa.
9. The Registrar Peshawar, High Court, Peshawar.
10. All District and Session judges in Khyber Pakhtunkhwa.
11. All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa.
12. The Manager Government Printing Press, Peshawar for publication in the next Government gazettee Notification. 40 copies of the Notification may be sent to this Department.

(IZAZ ULLAH)  
Section Officer (Estab)  
Phone # 091-9213224

(Answer) E

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23/11/2017

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**اشتہار برائے بھرتی ویلج ایگریکلچر (BPS-07) برائے ویلج / نیبر ہڈ کونسل و جونیئر کلرک (BPS-11) برائے دفتر اسسٹنٹ ڈائریکٹر محکمہ ہدایات و دیہی ترقی ضلع صوابی**

دفتر ہڈا کو دلج بیکری برائے ویلج ایگریکلچر اور جونیئر کلرک برائے دفتر اسسٹنٹ ڈائریکٹر محکمہ ہدایات و دیہی ترقی ضلع صوابی کی خالی آسامیوں کو پُر کرنے کے لئے اہل امیدواروں سے درخواستیں مطلوب ہیں۔ خالی آسامیوں کے بارے میں تفصیل دفتر ذیل سے حاصل کی جاسکتی ہے۔ مطلوبہ قابلیت اور دیگر شرائط:-

نمبر	ضلع	آسامی	نام ویلج ایگریکلچر ہڈا کو دلج	تعداد	نیادی	مطلوبہ قابلیت	عمری
شمار				آسامی	سیکل		حد
1	صوابی	ویلج بیکری برائے ویلج ایگریکلچر ہڈا کو دلج	1- ڈیم، 2- مکئی، 3- کرنل شیر کے شرق، 4- شیخ چان، 5-II - کھنڈہ، 6- منگل پانی، 7- مٹی، 8-II - مٹی، 9- ا، 10- کوٹہ I	20	07	1- حکومت کے تصدیق شدہ بورڈ سے ایب اے / ایب ایس بی پاس کے مساوی قابلیت۔ 2- حکومت کے تصدیق شدہ ادارے سے کیپیٹر سافٹ ویئر ایم ایس آفس میں کم از کم 6 ماہ کا کورس پاس کیا ہو اور ان (Input) اور انٹرویو ای سیل پر عبور حاصل ہو۔	18-30
2	صوابی	جونیئر کلرک		01	11	تصدیق شدہ بورڈ سے میٹرک پاس کے مساوی تعلیمی قابلیت	25-18

(1) ویلج بیکری برائے ویلج ایگریکلچر ہڈا کو دلج:۔ حلقہ ویلج ایگریکلچر ہڈا کو دلج اور اس کی ویلج ایگریکلچر ہڈا کو دلج میں حلقہ امیدوار موجود ہوں تو اس سے متصل ویلج ایگریکلچر ہڈا کو دلج کے امیدوار کو منتخب کیا جائیگا۔ اگر اس کے باوجود حلقہ امیدوار موجود نہ ہوں تو اسی حلقہ کے امیدوار کو میرٹ کی بنیاد پر منتخب کیا جائیگا۔ (2) جونیئر کلرک:- امیدوار حلقہ مطلع کے ذریعہ سائل کا مال ہو۔ (3) تمام تقرریاں حکومت خیر پختونخوا کے مقرر کردہ قوانین کے مطابق خالصتاً میرٹ کی بنیاد پر ہوں گی۔ (4) سرکاری ملازمین اپنے جگہ کی وسعت سے درخواستیں جمع کر سکتے ہیں۔ (5) مجازاتھاری کو تمام پاس کیا ایک درخواست کو مسترد کرنے اور آسامیوں کی تعداد میں کمی پیشی کا اختیار حاصل ہے۔

درخواست دینے کا طریقہ کار:- امیدوار اپنی درخواستیں آن لائن اپنا کی ویب سائٹ [www.etea.edu.pk](http://www.etea.edu.pk) سے مورخہ 20 نومبر 2017 تک جمع کرانیں۔ (درخواست میں دینے کے وقت کوائف کے درست نہ ہونے کی تمام تر ذمہ داری درخواست دہندہ پر ہوگی۔ درخواست گزار جمع شدہ آن لائن درخواست کا پرنٹ آؤٹ جس پر کچھ ٹیوٹو کی نمبر موجود ہوں تو جمع مبلغ 500 روپے (اسجانی نہیں قابل واپسی) HBI کی کسی بھی برانچ میں مجوزہ فیلڈ پلاٹ سلب پر اپنا کے کاؤنٹ میں جمع کرادیں اور مکمل کیے گئے درخواست فارم جمع اصل ڈیپازٹ سلیپ (ETEA Copy) 2 عدد دیکھیں تصاویر (پاسپورٹ سائز) کیپٹولٹریڈ تو قری شافی کارڈ / ڈی سی ایل اور تعلیمی اسناد کی تصدیق شدہ فوٹوکاپی بذریعہ ڈاک / کوریئر سروس اپنا کے دفتر (سکینر E) کان نمبر 22 مئی نمبر 13 حیات آباد فیروز پور ڈیپارٹمنٹ کھلیس پشاور) کے پتے پر ارسال کریں۔ تحریری امتحان کیلئے بذریعہ SMS مطلع کیا جائیگا۔ ٹیسٹ دائرہ کیلئے کوڈ TA/DA دیں۔

نوٹ:۔ آن لائن درخواست جمع کرنے کے لئے درخواست گزار اپنے تعلیمی دستاویزات (پاسپورٹ سائز تصویر کی سافٹ کاپی) ضرور اپنے ساتھ رکھیں۔ درخواستیں جمع کرنے کی آخری تاریخ 30 نومبر 2017 ہے۔ مقررہ تاریخ کے بعد کوئی درخواست قابل قبول نہیں ہوگی۔

انتہی:۔ (سید عرفان احمد) اسسٹنٹ ڈائریکٹر محکمہ ہدایات و دیہی ترقی ضلع صوابی

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Government Of Khyber Pakhtunkhwa  
Local Government, Elections & Rural  
Development Department

24/4/18  
Dir (Adm./HR)  
06/4/2018

NOTIFICATION

(24)

D. No. --- PTN  
DATED 24/4/18  
GO LOCAL GOVERNMENT

Dated Peshawar, the 05<sup>th</sup> April, 2018

No. SO(LG-112-188/SSRC/2018.- In exercise of the power conferred by sub-rule (2) of the rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Local Government, Elections and Rural Development Department Khyber Pakhtunkhwa. In consultation with the Establishment & Administration Department and the Finance Department. hereby directs that in this Department's Notification No. DG(RWP)7(2)/73. dated 26.01.1978. the following further amendments shall be made. namely:

AMENDMENTS

In the Appendix.-

for serial No. 10 the following shall be substituted, in the respective columns. namely:

10.	Supervisor	Atleast Second Class Bachelor's Degree from a recognized University.	21 to 30 years.	i) Seventy-five (75) per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Secretary Village / Neighborhood Council, with atleast five (05) year service as such; and ii) Twenty-five (25) per cent by initial recruitment.
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(b) after serial No. 15, the following new entries shall be inserted, in the respectively columns, namely.

15A.	Senior Secretary Village / Neighborhood Council.	-----	-----	B) promotion, on the basis of seniority-cum-fitness, from amongst the Junior Secretary Village / Neighborhood Council, with atleast ten (10) year service as such.; and
------	--	-------	-------	---

(c) for serial No. 16, the following shall be substituted, in the respective columns, namely:

16.	Junior Secretary Village / Neighborhood Council.	Atleast Second Class Intermediate or equivalent qualification from a recognized Board and atleast six (06) months Certificate in Computer from a recognized Institute with experience in MS-Office, Impage and Internet.	18 to 30 years.	i) Twenty (20) per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Naib Qasids and Chowkidars in the Village / Neighborhood Council with seniority at tehsil level, having Secondary School Certificate in <u>second division</u> , from a recognized Board or Institute with three (03) year service as such; and
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				<p>ii) Eighty (80) per cent by initial recruitment:</p> <p>Provided that the candidate shall be preferably a bonafide resident of the same Village / Neighborhood Council. If such candidate is not available in the same Village / Neighborhood Council then the candidates from adjacent Village / Neighborhood Council:</p> <p>Provided further that in case of non-availability of candidate from adjacent Village / Neighborhood Council then from any other Village / Neighborhood Council in that Tehsil Council.</p>
--	--	--	--	--

SECRETARY TO GOVERNMENT OF KP  
LOCAL GOVT. ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT

No. SO/LG-02-188/SSRC/2018-

Dated Peshawar, the 05<sup>th</sup> April, 2018

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2. All Divisional Commissioners in Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
4. The PSO to Chief Minister, Khyber Pakhtunkhwa Peshawar.
5. The PSO to Chief Secretary, Khyber Pakhtunkhwa Peshawar.
6. The Director General, LG,E&RDD, Khyber Pakhtunkhwa Peshawar.
7. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
8. All Head of Attached Departments in Khyber Pakhtunkhwa.
9. All Deputy Commissioners in Khyber Pakhtunkhwa.
10. The Registrar, Peshawar High Court, Peshawar.
11. All District and Session Judges in Khyber Pakhtunkhwa.
12. All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa.
13. The Manager Government printing press, Peshawar for publication in the next Government Gazette Notification. 40 copies of the Notification may be sent to this Department.
14. The PS to Senior Minister for LO,E&RD Khyber Pakhtunkhwa.
15. The PS to Secretary LG,E&RDD Peshawar.
16. The Office Order file.

  
(HAJI MUHAMMAD)  
SECTION OFFICER (ESTAB)  
Phone # 091-9213224



(Annexes) sc 5/12

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1/2

**OFFICE OF THE ASSISTANT DIRECTOR  
LOCAL GOVERNMENT & RURAL DEVELOPMENT DEPTT:  
SWABI**

No. 374 AD (SB-LG)/DPC

Dated Swabi the 13 /06/2019

**NOTIFICATION.**

Consequent upon the recommendation of the Departmental promotion committee the following Naib Qasids (BPS 02) of VC/NCs are hereby promoted to the post of junior secretary VC/NC (BPS 09) on regular basis in the best public interest with immediate effect.

**Tehsil Razzar:-**

S. No.	Name	Father Name
1	Inam Ullah	Wali Ullah
2	Imran Ullah	Rahim Ullah
3	Umer Ali Khan	Kamdar Khan
4	Bakhtiar Ali	Gulzar Muhammad
5	Zahir Khan	Feroz Khan
6	Ijaz Ali	Hakeem Khan
7	Safeer Ahmad	Farhan Ali
8	Said Ghani	Abdul Ghani

**Tehsil Topi:-**

S. No.	Name	Father Name
1.	Liaqat Zaman	Bazwan
2	Islam Farooq	Muhammad Jan
3	Abdul Rahim	Nazir Muhammad
4	Bakht Zada	Noor Zaman Khan
5	Muhammad Naeem	Muhammad Saleem
6	Ramzan	Jamroz Khan

20 27

Tehsil Swabi:-

S. No.	Name	Father Name
1	Muhammad Ali	Sher Aman
2	Ayaz Ahmad	Juma Khan
3	Sohrab Muhammadi	Nidar Muhammad
4	Ibrar Ahmad	Gul Raiz
5	Shah Haidar Khan	Shah Jehan
6	Iftikhar Ali	Ghulam Haider
7	Fayaz Imran	Dilawar Shah
8	Zahir Khan	Muhammad Israr Khan

Tehsil Lahor:-

S. No.	Name	Father Name
1	Muzzaffar Khan	Ihsan Ullah

Note:

1. All the above junior secretaries VC/NC will be on probation for one year extendable to next one year if required under the rules.
2. The above junior secretaries VC/NC will be attached for two weeks with their respective Tehsil Supervisors for on job training.
3. On the successful completion of their two weeks on job training their posting order will be issued separately.

*Uad*

ASSISTANT DIRECTOR  
Local Govt: & Rural Dev: Deptt: SWABI

Endst: of Even No. & Date.

Copy to:-

1. PA To Director General, Local Govt: & Rural Development Deptt: Khyber Pakhtunkhwa, Peshawar.
2. The District Accounts Officer.
3. Official concerned.
4. Office copy.

*Uad*

ASSISTANT DIRECTOR  
Local Govt: & Rural Dev: Deptt: SWABI

Tehsil Swabi:-

S. No.	Name	Father Name
1	Muhammad Ali	Sher Aman
2	Ayaz Ahmad	Juma Khan
3	Sohrab Muhammad	Nidar Muhammad
4	Ibrar Ahmad	Gul Riaz
5	Shah Haidar Khan	Shah Jehan
6	Iftexhar Ali	Ghulam Haidar
7	Fayaz Imran	Dilawar Shah
8	Zahir Khan	Muhammad Israr Khan

Tehsil Lahor:-

S. No.	Name	Father Name
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Note:

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3. On the successful completion of their two weeks on job training their posting order will be issued separately.

--sd--

ASSISTANT DIRECTOR  
Local Govt. & Rural Dev., Depatt: SWABI.

Endst: of Even No. & Date:

## Copy to :-

1. PA to Director General, Local Govt. & Rural Development Deptt: Khyber Pakhtunkhwa, Peshawar.
2. The District Accounts Officer.
3. Official concerned.
4. Office copy.


--sd--

ASSISTANT DIRECTOR  
Local Govt. & Rural Dev., Depatt: SWABI.

(Annex) H  
① 27 28

**IN THE PESHAWAR HIGH COURT, PESHAWAR**

Writ Petition No. \_\_\_\_\_ / 2019

  
Farukh Zeb S/O Humayun Khan, Naib Qasid, Topi (Rural  
RVC) Local Govt. & Rural Development Department, District Swabi.  
Petitioner

*Versus*

1. Govt. of Khyber Pakhtun Khwa through Chief Secretary, Civil Secretariat, Peshawar.
  2. Secretary to Govt. of Khyber Pakhtun Khwa, Local Govt. & Rural Development Department, Khyber Pakhtun Khwa, Peshawar.
  3. Secretary to Govt. of Khyber Pakhtun Khwa, Establishment Department, Peshawar.
  4. Secretary to Govt. of Khyber Pakhtun Khwa, Finance Department, Peshawar.
  5. Director General, Local Govt. Elections & Rural Development Department, Khyber Pakhtun Khwa, Peshawar.
  6. Assistant Director, Local Govt. Elections & Rural Development Department, Khyber Pakhtun Khwa, Swabi.
- Respondents

**WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973**

Respectfully Sheweth:

**BRIEF FACTS**

1. That the present petitioner is the respectable citizens of Pakistan, hails from a noble family of the District Swabi.

2. That the petitioner is having F.A on his credit which he earns after qualifying required examination from the concerned Board.

{True copy of educational testimonials are attached, as mark Annex-A}

3. That the petitioner was appointed vide order dated: 28-02-2007 as Naib Qasid by the respondent/Local Govt. Department.

{True copy of appointment order is attached, as mark Annex-B}

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**PESHAWAR HIGH COURT, PESHAWAR**

**ORDER SHEET**

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge(s).
1	2
<p>15.07.2020</p>	<p><b><u>W.P. No.4572-P/2019</u></b></p> <p>Present: Mr. Asad Zeb Khan, Advocate, for the petitioner.</p> <p>Mr. Rab Nawaz Khan, AAG, for the official respondents.</p> <p>*****</p> <p>At the very outset of hearing, learned counsel for the petitioner requested to file the amended writ petition by challenging the Amendments made by the respondent No.2 vide Notification dated 16.10.2019. Allowed. May do so before the next date of hearing. Besides, learned counsel for the petitioner is directed to impugn all the notifications, from which he is aggrieved. 2</p> <p><i>(Signature)</i></p> <p><b>NOTIFIED TO BE TRUE COPY</b></p> <p><small>Enrollment Peshawar High Court, Peshawar Subordinate under Article 57 of the Constitution of the Islamic Republic of Pakistan 1973</small></p> <p><b>02 SEP 2020</b></p> <p><i>(Signature)</i></p> <p><b>JUDGE</b></p>

(Muhammadullah)\* (DB) Hon'ble Mr. Justice Ikramullah Khan and Hon'ble Mr. Justice Ijaz Anwar



Local Government, Elections & Rural Development Department

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NOTIFICATION

Dated Peshawar, the 16<sup>th</sup> October, 2019

No. SO(E)LG/2-188/SSRC/2019. In exercise of the powers conferred by sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Local Government, Elections and Rural Development Department Khyber Pakhtunkhwa, in consultation with the Establishment & Administration Department and the Finance Department hereby directs that in this Department's Notification No. DG(RWP)7(2)/73, dated 26.01.1978, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

a) Against Serial No. 2, in column No. 6, for the existing entries, the following shall be substituted, namely:

- i) "Fifty per cent by initial recruitment through Khyber Pakhtunkhwa Public Services Commission on the pattern of syllabus prescribed for the Officers in Provincial Management Service.";
ii) Forty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Progress Officers with at least three years service as such; and
iii) Ten per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Scale Stenographers and Assistants with at least three years service as such.";

Note: For purpose of promotion to the post of Assistant Director against ten percent quota, there shall be maintained a joint seniority list of Senior Scale Stenographers and Assistants."

b) against Serial No. 3, in column No.6, for the existing entries, the following shall be substituted, namely:

- i) "Fifty (50) per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Superintendents with at least three years service as such; and
ii) Fifty (50) per cent by initial recruitment.";

c) against Serial No.5, in column No. 6, for the existing entries, the following shall be substituted, namely:

- i) "Twenty per cent by promotion, on the basis of seniority-cum-fitness, from amongst diploma holder Sub-Engineers with at least ten years service as such and have passed the prescribed Departmental Examination;
ii) Ten per cent by promotion, on the basis of seniority-cum-fitness, from amongst Sub-Engineers with at least five years service as such and who possess Bachelor's Degree in Engineering or its equivalent qualification from a recognized University; and
iii) Seventy per cent by initial recruitment.";

OA, circulate to all 23/10

Director (H.R./A) circulate among field officers 18/10

Div/Adm/HR 17/10/2019

Handwritten initials and date

Handwritten asterisk

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noted

- 3
- d) against Serial No. 6. in column No.6, for the words, colon and slash "Assistants/Accountants/Senior Scale Stenographer", the word "Accountants" shall be substituted;
- e) against Serial No. 15A, in column No.6, for the word, figure and brackets "ten (10)", the word, figure and brackets "five (05)" shall be substituted; and
- f) against Serial No. 16. in column No.6 for the existing entry, the following shall be substituted, namely:
- Twenty (20) per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Naib Qasids and Chowkidars in the Village Council / Neighborhood Council with seniority at Tehsil level, having Secondary School Certificate in Second Division from a recognized Board or Institute and six months Diploma in IT from recognized Board / Institute with three (03) years service as such; and
  - Eighty (80) per cent by initial recruitment:

Provided that the candidate shall be preferably a bonafide resident of the same Village / Neighborhood Council. If such candidate is not available in the same Village Council / Neighborhood Council then the candidate from adjacent Village Council / Neighborhood Council;

Provided further that in case of non-availability of candidate from adjacent Village Council / Neighborhood Council then from any other Village Council / Neighborhood Council in that Tehsil."

SECRETARY TO GOVERNMENT OF KHYBER  
PAKHTUNKHWA LG,E&RD DEPARTMENT

No. SO(E)LG/2-188/SSRC/2019.-

Dated Peshawar, the 16<sup>th</sup> October, 2019

Copy forwarded to:-

- All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
- All Divisional Commissioners in Khyber Pakhtunkhwa.
- The Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
- The PSO to Chief Minister, Khyber Pakhtunkhwa Peshawar.
- The PSO to Chief Secretary, Khyber Pakhtunkhwa Peshawar.
- The Director General, LG,E&RDD, Khyber Pakhtunkhwa Peshawar.
- The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
- All Head of Attached Departments in Khyber Pakhtunkhwa.
- All Deputy Commissioners in Khyber Pakhtunkhwa.
- The Registrar, Peshawar High Court, Peshawar.
- All District and Session Judges in Khyber Pakhtunkhwa.
- All Assistant Directors, LG&RDD in Khyber Pakhtunkhwa.
- The Manager Government printing press, Peshawar for publication in the next Government Gazettee Notification. 100 copies of the Notification may be sent to this Department.
- The PS to Senior Minister for LG,E&RD Khyber Pakhtunkhwa.
- The PS to Secretary LG,E&RDD Peshawar.
- The Office Order file.

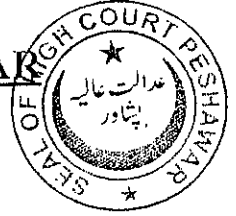
(HAJI MUHAMMAD)  
SECTION OFFICER (ESTAB)  
Phone # 091-9213224



Annex Aij

32

IN THE PESHAWAR HIGH COURT, PESHAWAR



Writ Petition No. EPJ / 2019

Farukh Zeb S/O Humayun Khan, Naib Qasid, Topi (Rural, RBC & RVC) Local Govt. & Rural Development Department, District Swabi.  
Petitioner

*Versus*

1. Govt. of Khyber Pakhtun Khwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary to Govt. of Khyber Pakhtun Khwa, Local Govt. & Rural Development Department, Khyber Pakhtun Khwa, Peshawar.
3. Secretary to Govt. of Khyber Pakhtun Khwa, Establishment Department, Peshawar.
4. Secretary to Govt. of Khyber Pakhtun Khwa, Finance Department, Peshawar.
5. Director General, Local Govt. Elections & Rural Development Department, Khyber Pakhtun Khwa, Peshawar.
6. Assistant Director, Local Govt. Elections & Rural Development Department, Khyber Pakhtun Khwa, Swabi.

Respondents

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973

Respectfully Sheweth:

BRIEF FACTS

1. That the present petitioner is the respectable citizens of Pakistan, hails from a noble family of the District Swabi.

2. That the petitioner is having F.A on his credit which he earns after qualifying required examination from the concerned Board.

{True copy of educational testimonials are attached, as mark Annex-A}

3. That the petitioner was appointed vide order dated: 28-02-2007 as Naib Qasid by the respondent/Local Govt. Department.

{True copy of appointment order is attached, as mark Annex-B}

**ATTESTED**  
- EXAMINER  
Peshawar High Court

17

4. That the petitioner after his appointment, is performing his duties with great zeal and zest and to the entire satisfaction of the respondent department.

5. That the petitioner is the senior most Naib Qasid in Tehsil Topi in the respondent Department.

{True copy of seniority list is attached, as mark Annex-C}

6. That the respondents/Local Govt. Department in consultation with the Establishment and Finance Departments framed their rules and from time to time made certain changes in the service rules of their employees.

7. That the respondent No. 2 vide notification dated: 03-12-2015 made certain changes in respect of filling up post of Village Secretary (BPS-07) vide which the required qualification for the post of village secretary was Intermediate with atleast 06 months computer certificate but through the subject amendment, no quota was reserved for promotion of the class-IV employees.

{True copy of notification dated: 03-12-2015 is attached, as mark Annex-D}

8. That on the basis of the amendment dated: 03-12-2015, the respondents/ department made certain advertisement and also appointed hundreds of village secretaries throughout the province.

{True copy of advertisements are attached, as mark Annex-E}

9. That the petitioner who was trying hard at every level for insertion of the quota of promotion to the posts of villages secretaries, when he was shocked to know that the respondents/ Local Govt. Department made the impugned notification of amendment dated: 05-04-2018 vide which 20% quota has been reserved for promotion from the post of Naib Qasid to the post of Junior Secretary Village/neighborhood council but surprisingly they while giving such benefit to the class-IV employees put a hurdle of having atleast 2<sup>nd</sup> Division SSC.

{True copy of impugned notification dated: 05-04-2018 is attached, as mark Annex-F}

**ATTESTED**  
**EXAMINER**  
**Peshawar High Court**

10. That the respondent No. 6 after applying the newly amended rules, promoted 6 Naib Qasid's of tehsil Topi vide impugned notification dated: 13-06-2019 and failed to promote the petitioner to the post of Village Secretary despite of the fact that he is senior most Naib Qasid in Tehsil Topi.

{True copy of impugned notification dated: 13-06-2019 is attached, as mark Annex-G}

11. That the petitioner being aggrieved from the action and inaction of the respondents and having no other efficacies remedy except to file the instant petition for the redressal of his grievances before this Hon'ble Court on the following amongst other grounds.

**GROUNDS:**

- A. **Because** the impugned notification dated: 05-04-2018 issued by respondent No. 2 is discriminatory, against law, facts, hence liable to be set-aside to the extent of having 2<sup>nd</sup> Division SSC.
- B. **Because** the impugned notification dated: 05-04-2018 is illegal, unlawful, void ab initio, ultra vires and beyond the authority of its maker, hence liable to set at naught.
- C. **Because** it has been held by the Superior Courts of Pakistan in plethora of judgments that the Govt. can't make or amend any service rules which put negative impact upon the employees or which is hurdle in their performance and promotion.
- D. **Because** the respondent No. 2 in utter disregard to the principles of the fairness, merit and transparency passed/issued the impugned notification dated: 05-04-2018 wherein for promotion to the post of Junior Secretary condition of having atleast 2<sup>nd</sup> Division SSC was inserted, hence the impugned notification of the respondent No. 2 is against the law, illegal, unlawful and void ab initio and liable to be turned down.
- E. **Because** the petitioner has been treated unfairly, discriminatory and the initiative of the respondents is based on malafide. Through the impugned

**ATTESTED**  
**EXAMINER**  
**Peshawar High Court**

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service rules, 2018. class-IV employees of the department having 3<sup>rd</sup> Division has been denied promotion, which is unwarranted.

- F. **Because** in a similar nature issue, the august Lahore High Court, Lahore had already turned down policy of inserting ineligibility of 3<sup>rd</sup> Divisioners in the rules.
- G. **Because** the basic qualification for appointment to the post of Junior Secretary Village / Neighborhood Council is intermediate by initial recruitment and there is no such condition of 2<sup>nd</sup> or 3<sup>rd</sup> Division but in the case of promotion to the said post, condition of having 2<sup>nd</sup> Division SSC has been laid down, which is disadvantages to the class-IV employees with 3<sup>rd</sup> Division.
- H. **Because** the recruitment/promotion criteria promulgated through the impugned notification is issued with ulterior motive just to accommodate the blue eyed, therefore, the same are illegal and such practice adversely affects efficiency of incumbents and also reduces the confidence and faith of the petitioner, hence the impugned notification referred above is liable to be struck down on this score also.
- I. **Because** the petitioner had been made victim of discrimination, demerits, partiality and favoritism without any just and reasonable cause thereby offending the fundamental rights of the petitioner as provided by the constitution of 1973, hence the impugned notification detailed above is liable to be set at naught.
- J. **Because** the present impugned notification is illegal, illogical, against facts, without jurisdiction and suffering from material irregularity, hence the same is untenable and liable to be struck down.
- K. **Because** through the impugned notification, the respondents have promoted certain Naib Qasid to the post of Junior Secretary who are junior in seniority to the petitioner
- L. **Because** the Respondents erroneously exercised their powers against judicial principle, and have passed the impugned notification and opened a new

(10) (36)

K. Because the Respondents erroneously exercised their powers against judicial principle, and have passed the impugned notification and opened a new pandora box in clear violation of Service law, hence, the said impugned notification is liable to be declared as illegal and unlawful and liable to be struck down.

L. The petitioner craves for leave of the Hon'ble Court to raise additional grounds at the time of arguments.

IT IS, THEREFORE, most respectfully prayed that on acceptance of this petition this Hon'ble Court may very graciously be pleased to:

- i. DECLARE THE IMPUGNED NOTIFICATION DATED: 05-04-2018 TO THE EXTENT OF MENTIONING 2<sup>ND</sup> DIVISION SSC, AS ILLEGAL, UNLAWFUL, DISCRIMINATORY, VOID AB INITIO AND NULLITY IN THE EYES OF LAW.
- ii. SET ASIDE THE IMPUGNED PROMOTION ORDER DATED: 13-06-2019 BEING ILLEGAL & UNLAWFUL.
- iii. DIRECT THE RESPONDENTS TO GIVE EQUAL RIGHT OF PROMOTION TO THE PETITIONER FOR THE POSTS OF JUNIOR SECRETARY VILLAGE/ NEIGHBORHOOD COUNCIL.
- iv. ANY OTHER RELIEF, THOUGH NOT SPECIFICALLY ASKED FOR, DEEMS APPROPRIATE MAY ALSO BE GRANTED.

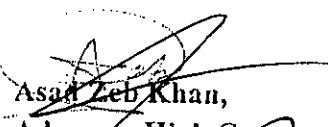
**INTERIM RELIEF:**

BY WAY OF INTERIM RELIEF, THIS HON'BLE COURT MAY VERY GRACIOUSLY BE PLEASED TO SUSPEND THE OPERATION OF IMPUGNED PROMOTION ORDER DATED: 13-06-2019 BY MAINTAINING STATUS QUO. FURTHER RESTRAIN THE RESPONDENTS FROM PROMOTIONS TO THE POSTS OF JUNIOR SECRETARY VILLAGE/ NIEGHBOURHOOD COUNCIL TILL THE FINAL DISPOSAL OF THIS PETITION.

Dated: 01-08-2019

Through

Petitioner

  
Asad Zeb Khan,  
Advocate High Court.

**VERIFIED TO BE TRUE COPY**

**EXAMINER**  
Peshawar High Court, Peshawar  
Authorized Under Article 178  
of the Constitution of Pakistan

**02 MAR 2021**

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**Note:** Certified that previously writ petition was filed by the petitioner and one another which was withdrawn on 25-07-2019 with permission of the court. Further according to rules, this petition may kindly be placed before Divisional Bench of this august court.

  
Advocate

**Books:**

1. Constitution, Islamic Republic of Pakistan, 1973.
2. Case Law as per need.



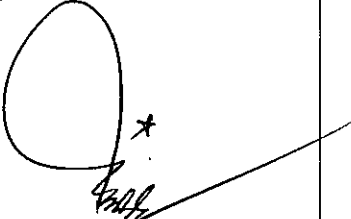
  
**CERTIFIED TO BE TRUE COPY**  
EXAMINED  
Peshawar High Court, Peshawar  
Authorized Under Article 67 of  
The Punjab & Shikhar Order 192.  
**02 MAR 2021**

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 7038 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	13/07/2021	<p>The appeal of Mr. Farukh Zeb presented today by Mr. Asad Zeb Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p>	30.08 .2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30/08/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Junior of counsel for the appellant present.</p> <p>Junior of learned counsel for the appellant requested for adjournment on the ground that the learned counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing before the S.B on 13.10.2021.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

13.10.2021

Clerk of learned counsel for the appellant present.

Former requests for adjournment on the ground that the learned counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing before the S.B on 14.12.2021.

  
(MIAN MUHAMMAD)  
MEMBER (E)

14.12.2021

Learned counsel for the appellant present.

Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the brief. Adjourned. To come up for preliminary hearing on 23.02.2022 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

23.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 19.05.2022 for the same before D.B.

  
Reader

19.05.2022

Learned counsel for the appellant present and requested for adjournment in order to further prepare the brief. Adjourned. To come up for preliminary hearing 18.07.2022 before S.B.

  
(Mian Muhammad)  
Member (E)