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The Balochistan Gazette

PUBLISHED BY AUTHORITY

No. 165 QUETTA TUESDAY OCTOBER 27, 2009

GOVERNMENT OF BALOCHISTAN
SERVICES AND GENERAL ADMINISTRATION
DEPARTMENT
(REGULATION-I)

NOTIFICATION.

Dated Quetta, the 27 October, 2009

No. SORI-5(13)1/S&GAD/2007/ 1857-1956. In exercise of the powers

conferred by sub-section (1) of Section 25 of the Balochistan Civil Servants Act, 1974, (Balochistan Act No. IX of 1974), the Government of Balochistan is pleased to make the following rules:-

PART I -- GENERAL

1. These rules may be called the Balochistan Civil Servants (Appointment, Promotion and Transfer) Rules, 2009.

2. (1) In these rules, unless there is anything repugnant in the subject or context:-

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

(b) "["Provincial Selection Board" means a Board constituted by Government under rule 6-A;]

"Commission" means the Balochistan Public Service Commission;

Substituted by Extra Ordinary Gazette No. 39 of August, 2012.

"Departmental Promotion Committee" means a Committee constituted for making selection for promotion to such posts under a Department or office of Government in basic pay scales 16 and below or equivalent;

"Departmental Selection Committee" means a Committee constituted for the purpose of making selection for initial appointment to post under a Department or office of Government in basic pay scales 15 and below or equivalent; and

(f) "Government" means the Government of Balochistan.

(2) Words and expressions used herein but not defined in these rules shall have the same meanings as are assigned to them in the Balochistan Civil Servants Act, 1974 (Act IX of 1974).

3. ?(Method of appointment.] (1) Appointments to a post shall be made by any of the following methods,

namely:-

(a) by promotion or transfer in accordance with Part II of these rules; and

(b) by initial recruitment in accordance with Part III of these rules.

(2) the method of appointment and the qualification and other conditions applicable to a post shall be as laid down by the Department concerned in consultation with the Services and General Administration Department ~*[on the recommendations of the Service Rules Sub Committee or on the recommendations of the Service Rules Main Committee whenever the case referred by the Service Rules Sub Committee.]

4. The authority competent to make appointment to the various posts shall be as follows:-

Posts in basic pay scales-18 and above

Posts in basic pay scales-16 and B-17 | Chief Secretary

Posts in basic pay scales-1 to 15 Administrative Secretary]

Inserted by Extra Ordinary Gazette No. 39 of August, 2012.

Substituted and inserted by S&GAD's Notification dated 31** December, 2012

Substituted by Extra Ordinary Gazette No. 40 of August, 2012.

Departmental
Promotion/
Selection
Committees.

5. (1) In each Department or office of Government, there shall be one or more Departmental Promotion Committee and Departmental Selection Committee, the composition of which shall be determined by the Department concerned in consultation with the Services and General Administration Department.

(2) Each such committee shall consist of at least four members one of whom shall be appointed as Chairman.

6. Where appointing authority for posts in basic pay scales 15 and below or equivalent does not accept the recommendations of the appropriate Departmental Promotion Committee, it shall record its reasons and obtain order of the next higher authority.

°16-A. For the purpose of selection for appointment by promotion or transfer to post in BPS-17 and above or equivalent and such posts as may be notified by Government, the Government may constitute one or more than one Provincial Selection Board consisting of not less than five members, one of whom shall be nominated as Chairman and one as Member/Secretary to the Board;]

PART-II_- APPOINTMENTS BY PROMOTION OR TRANSFER.

7. (1) Promotion and transfers to the posts in basic pay scales 2 to 16 and equivalent shall be made on the recommendations of the appropriate Departmental Promotion Committee; and to the posts in basic pay scales 17 and above or equivalent, shall be made on the recommendations of the Provincial Selection Board.

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

(3) Appointments by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale or equivalent or identical with the post to be filled in.

7-A (1) The Competent Authority may approve the promotion of an officer or official from the date on which the recommendation of the Provincial Selection Board or, as the case may be, the Departmental Promotion Committee was made.

Inserted by Extra Ordinary Gazette No. 39 of August, 2012.

Inserted by Extra Ordinary Gazette No. 224 dated March 03, 2011

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Appointment/
posting on

acting
basis.

charge

(2) Notwithstanding anything contained in Rule 17 of the Fundamental Rules the officer or official who expires or superannuates after the recommendations of the Provincial Selection Board or the Departmental Promotion Committee and before the issuing of the notification, shall stand exempted from assumption of the charge of the higher post. The Principal Accounting Officer or an Officer so authorized, will give a certificate to the effect that the officer or official has expired or superannuated.|

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

(2) In the case of a post in basic pay scale 17 to 22 or equivalent, reserved under the rules to be filled by initial appointment, where the appointing authority is satisfied that no suitable officer (drawing pay in basic pay scale in which the post exists) is available in that category to fill the post and it is expedient to fill the post, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the organization, cadre or service, as the case may be, in excess of the promotion quota.

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

(4) Acting charge shall be granted by the following authorities, where after the case for regular promotion shall be placed before the Provincial Selection Board/ Departmental Selection Committee in due course:-

Posts in basic pay scales-19 and above Chief Minister
Posts in basic pay scales-17 and 18 Chief Secretary

Posts in basic pay scales-1 to 15 Administrative
Secretary]

w [omitted |

Substituted by Extra Ordinary Gazette No. 40 of August 2012

Omitted by Extra Ordinary Gazette No. 40 of August 2012

(5) Appointment on acting charge basis shall neither amounts to be a promotion on regular basis for any purpose including seniority, nor it shall confer any vested right for regular promotion to the post held on acting charge basis.

PART-II - INITIAL APPOINTMENT

9. (1) Initial appointment to the post in basic pay scales 16 and above or equivalent shall be made if the post;

(a) fall within the purview of the Commission, on the basis of examination or test to be conducted by the Commission; and

(b) do not fall within the purview of the Commission, in the manner as may be determined by Government.

(2) Initial appointments to the posts in basic pay scales 1 to 15 and equivalent shall be made on the recommendations of the Departmental Selection Committee, after these vacancies have been advertised in leading newspapers.

(3) A candidate for initial appointment to a post

must possess the educational qualification (s) and experience and be within the age limit as laid down for the post.

(4) A candidate for appointment shall be the citizen of Pakistan and a domicile/local of the Province of Balochistan.

(5) Posts in basic pay scale 3 to 15 in offices which serve only a particular Region or District shall be filled by appointment of persons domiciled in the Region or District concerned.

(6) Posts in basic pay scale 1 and 2 shall ordinarily be filled on local basis.

10. Vacancies in the under mentioned posts shall be filled on Provincial basis in accordance with the merit and regional or district quota as provided in rule 15:-

(i) Posts in basic pay scale 16 and above.

(ii) Posts in basic pay scale 3 to 15 in offices which serve the whole Province.

Alteration in
date of birth.

[Appointment
of Spouse or
Child of
deceased
Government
Servant.

11. The date of birth of a civil servant once recorded at the time of joining the Government service shall be final and no alteration therein shall be permissible, except, where a clerical mistake occurs in recording the date of birth in the Service record:

Provided that, no request of a civil servant on this ground shall be entertained after a period of two years from the date of such entry in his service record; and all such cases shall be decided by the Appointing Authority, on the recommendation of an Enquiry Committee with the following composition:

Senior Member, Board of Revenue Chairman
Secretary, S&GAD Member
Secretary, Law Department. Member

Secretary of the concerned Co-opted Member
Administrative Department

12. Notwithstanding any thing contained in any rule to the contrary, whenever a Civil Servant dies while in service, his/her spouse or a child may be employed by the appointing authority against a post in BPS-1 to 15 in the department in which deceased Government Servant was working, without observing the condition of open advertisement:

Provided that-

(a) the spouse or child as the case may be, shall possess the qualification prescribed for the post; and

if the child of the deceased Government Servant is under-age, his name shall be included in the waiting list from the date of death of his/her Father or Mother. However he/she shall be considered for appointment after he/she attains the age prescribed for the post.]

Substituted by S&GAD's Notification dated 31st July, 2013

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[Appointment
of a child of
retired /
invalidated
Government
Servant.

Quota for
disabled
persons.

'S[Quota_ for
w ome i n
candidates:

12-A. Notwithstanding any thing contained in any rule to the contrary, whenever a Government Servant in BPS-1 and BPS-2 retired on superannuation or due to invalidation, one of his/her children may be employed by the appointing authority against a post in BPS-1 and BPS-2 in the Department in which the retired Government Servant was working, without observing the condition of open advertisement:

Provided that-

(a) the child possess the qualification prescribed for the post; and

if the child of the retired Government Servant is under-age ate the time of retirement, his name shall be included in the waiting list from the date of retirement/invalidation of his/her Father or Mother. However he/she shall be considered for appointment after he/she attains the age prescribed for the post.]

13. = (1) Not less than two percent of total number of posts (fraction of 0.5 or above to count as a whole number for purpose of calculating percentage) in all Government Departments, shall be reserved for disabled persons, as provided under Section 10 [and Section 12] of the Disabled Persons (Employment and Rehabilitation) Ordinance 1981. (XL of 1981).

(2) In case of a disabled person, the maximum upper age limit prescribed in the Service Recruitment Rules for appointment to a post shall be relaxed by 10 years.

13-A. Five percent (5%) of total number of posts in all Government Departments, controlled by the Provincial Government shall be reserved for Women candidates to be filled by direct recruitment, in addition to their participation against the open merit posts. The vacancies reserved for women employment for which qualified women candidates

are not available shall be carried forward and filled by women later on.

Inserted by S&GAD's Notification dated 31 July, 2013

Inserted by Extra Ordinary Gazette No. 39 of August, 2012.

Inserted by Extra Ordinary Gazette No. 39 of August, 2012.

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Quota

for

Minorities (Non-

Muslim)

Medical fitness.

Zonal/ District

allocation
vacancies.

of

13-B. Five percent (5%) of total number of posts in all Government Departments, controlled by the Provincial Government shall be reserved for Minorities (Non-Muslim) candidates as defined in Article 260 (3) (b) of the Constitution of the Islamic Republic of Pakistan, 1973, to be filled by direct recruitment. The vacancies reserved for Minorities (Non-Muslim) for which qualified candidates are not available shall be carried forward and filled by Minorities (Non-Muslim) later on.]

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

15. Zonal/District allocation of the post for initial appointment will be considered in the light of policy/ procedure laid down by the Government from time to time.

PART -IV_- ADHOC AND TEMPORARY APPOINTMENTS

16. Where under the Balochistan Public Service Commission (Functions) Rules, 1995, a post is required to be filled through the Commission, the Administrative Secretary of the Department concerned shall forward a requisition in the prescribed form to the Commission immediately when it is decided to fill the post or if that is not practicable and the post is filled on adhoc basis as provided in rule 17, within two months of the filling of the post.

17. Where an Administrative Department considers it to be in the public interest to fill in a post falling within the purview of the Commission urgently, it may, pending nomination of a candidate by the Commission, with approval of the Competent Authority, proceed to fill such post on adhoc basis for a period not exceeding six months

by advertising the same in accordance with the procedure as laid down for initial appointment in part III.

18. Short-term vacancies in the posts falling within the purview of the Commission and vacancies occurring as a result of creation of temporary posts for a period not exceeding six months, may be filled by the appointing authority other-wise than through the Commission on a purely temporary basis after advertising the vacancy.

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"/PART-V_- PROBATION, CONFIRMATION AND SENIORITY.

Probation. 19. A civil servant appointed to a post for the Service on regular basis in accordance with Rules 9, 10, 12, 13, 13-A and 13-B of the Balochistan Civil Servants (Appointment, Promotion and Transfer) Rules, 2009, shall remain on probation as prescribed in the Balochistan Civil Servants (Confirmation) Rules, 2012.

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Confirmation. 20. After satisfactory completion of the probationary period, provided that he holds a substantive post, a civil servant shall be eligible for confirmation in service or a post or a grade; as prescribed in the Balochistan Civil Servants (Confirmation) Rules, 2012.

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Seniority of 21. The inter-se seniority of civil servants, appointed to members of a service, cadre or post shall be determined by the Service. Appointing Authority, as prescribed in the Balochistan Civil Servants (Seniority) Rules, 2008.]

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PART-VI_- INTER PROVINCIAL TRANSFER.

22. Inter-Provincial Transfer of Government servants on deputation or permanent basis from Balochistan to other Provinces and vice-versa, will be considered in the light of policy / procedure as laid down by the Government from time to time.

23. The Balochistan Civil Servants (Appointment, Promotion and Transfer) Rules, 1979, are hereby repealed.

BY ORDER OF
GOVERNOR BALOCHISTAN

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CHIEF SECRETARY
GOVERNMENT OF BALOCHISTAN

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Inserted by S&GAD's Notification dated 31** December, 2012.

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ISSUE OF BALOCHISTAN GAZETTE

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SERVICES AND GENERAL ADMINISTRATION
DEPARTMENT

(REGULATION SECTION-I)

Dated Quetta the 2nd December, 2011

NOTIFICATION

No.S.O.(R-I) 5(29)/2011-S&GAD/2975-3047 In exercise of the powers conferred by Rule 2 (1) (b) of the Balochistan Civil Servants (Appointment, Promotion and Transfer) Rules, 2009 and in supersession of this department's Notification No. SORI-5(29)A/S&GAD/2004/233-333 dated 8% March, 2005, the Government of Balochistan is pleased to re-constitute the following Provincial Selection Boards for making

recommendations for promotion in BPS-17 to BPS-20 and BPS-20 to

**PROVINCIAL SELECTION BOARD NO-I FOR PROMOTION
IN BPS-17 TO BPS-20.**

Chief Secretary, Balochistan. , Chairman
Senior Member, Board of Revenue. Member

Chairman, Chief Minister's Member
Inspection Team.

_Secretary, S&GA Department . Member
Secretary, Finance Department. Member
Secretary, Law Department. Member
Secretary of the concerned Co-opted Member
Administrative Department to

whom vacancy belongs.

Deputy Secretary (Services-I) S&GAD Member/Secretary

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PROVINCIAL SELECTION BOARD NO-II FOR PROMOTION
IN BPS-20 TO BPS-21.

Mr. Ahmed Bakhsh Lehri,
Chief Secretary, Balochistan.

Mr. Khalid Mahmood Bhutta,
Secretary, Law Department.

Mr. Naseer Ahmed Baloch,
Secretary, Urban Planning and
Development Department.

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Mr. Zafarullah Baloch, Member
Secretary, Transport Department.

Mr. Bilal Ahmed Jamali, Member/ Secretary
Secretary, S8&GA Department.

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CHIEF SECRETARY
BALOCHISTAN

The Controller,
Printing and Stationery Department,
Balochistan, Quetta.

No SORI-5(29)S&GAD / 3048-3147 Dated Quetta the 3TM December 2011.

A copy is forwarded for information to: -

The Senior Member, Board of Revenue, Balochistan Quetta.

The Additional Chief Secretary (Dev:), P&D Department, Quetta.
The Chairman, Provincial Inspection Team, Balochistan Quetta.
The Chairman, Public Service Commission, Balochistan, Quetta.
The Principal Secretary to Governor Balochistan, Quetta.

The Principal Secretary to Chief Minister Balochistan, Quetta.

All Administrative Secretaries to Government of Balochistan,

All Commissioners in Balochistan.
The Accountant General Balochistan, Quetta.

The Deputy Secretary (Staff) to Chief Secretary Balochistan Quetta.
All the Deputy Secretaries in S&GAD, Quetta.

All the Under Secretary / Section Officers, S&GAD Quetta.

The Private Secretary to Minister for S&GAD.

The Private Secretary to Secretary S&GAD, Quetta.

The P.A to Additional Secretary (Regulation), S&GAD, Quetta.

P.A to Deputy Secretary (Regulation) S&GAD, Quetta.

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(ATIQULLAH KHAN)

Section Officer (Regulation-])

S&GAD

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TO BE PUBLISHED IN THE EXTRAORDINARY GOVERNMENT OF BALOCHISTAN
ISSUE _ OF __ BALOCHISTAN GAZETTE SERVICES AND GENERAL ADMINISTRATION
DEPARTMENT
(REGULATION-])

Dated Quetta, the 17 June, 2013

NOTIFICATION

No.S.O(R-1)5(29)S&GAD/2013/ 1679-1778. In exercise of the powers conferred by Rule 6-A of the Balochistan Civil Servants (Appointment, Promotion and Transfer) Rules, 2009 and in partial modification of this Department's Notification of Even Number dated 2»4 December, 2011, the Government of Balochistan is pleased to re-constitute the following Provincial Selection Board for making recommendations for Promotion from BPS-20 to BPS-21:-

PROVINCIAL SELECTION BOARD NO. II FOR PROMOTION
FROM BPS-20 TO BPS-21.

Chief Secretary, Balochistan Chairman

Senior Member, Member Board of Revenue Member

Chairman, Chief Minister's Inspection Team Member

Mr. Naseer Ahmed Baloch, Secretary, Member
Social Welfare, Special Education, Literacy,

Non-Formal Education and Human Rights

Department

(By name)

Secretary, Law Department Member
Secretary, Finance Department Member

Secretary, Services and General Member/ Secretary
Administration Department

CHIEF SECRETARY
BALOCHISTAN

aS hejiegnotrolics,

ment Printing and Stationery Department,
histan, Quetta.

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publication and provision of 20 copies)

No. Even. Dated.

A copy is forwarded for information to:-

The Senior Member, Board of Revenue, Balochistan Quetta.

The Additional Chief Secretary (Dev:) P&D Department, Quetta.

The Chairman, Chief Minister's Inspection Team, Balochistan, Quetta.

The Principal Secretary to Governor Balochistan, Quetta.

The Principal Secretary to Chief Minister Balochistan, Quetta.

All the Administrative Secretaries to Government of Balochistan, Quetta

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All the Members '

The Director Gencral Public Relations Balochistan, Quetta.

All the Commissioners in Balochistan, 3

. The Accountant Gencral Balochistan, Quetta.

. The Deputy Secretary (Staff) to Chief Secretary Balochistan, Quetta.

. All the Deputy Secretaries in S&GAD,

. All the Under Secretaries/Section Officer in S&GAD

. The P.S. to Secretary S&GAD.

. The P.A to Additional Secretary (Reg:) S&GAD.

. The P.A. to Additional Secretary (Admn:), S&GAD.

. The P.A Deputy Secretary (Reg:), S&GAD.

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SERVICES & GENERAL ADMINISTRATION
DEPARTMENT.
(REGULATION SECTION-II)

Dated Quetta, the a2, m4 January, 200%

ORDER

NO. SOR-I(22)-43/ SGA&D/ gAa- L2-9. in continuation of this Department's Order No. SOR-1i(4)/22/S&GAD-81/313-337, dated 22th March 1988, it has been decided to include the Deputy Secretary (Services-!)S&GAD as member of the Service Rules Sub-Committee constituted for the purpose of framing

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of new Service Rules and revision/amendment in the existing rules of various Departments:

2. The composition of Service Rules Sub-Committee would now be as under:-

1 Secretary S&GAD Chairman
2 Additional Secretary /Draftsman law Department Member

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3 Deputy Secretary (Regulation) Member

Finance Department

Deputy Secretary (Services-!) Member

S&GAD (in absence of DS (S-!) the SO-II, S&GAD)

Secretary Member

Balochistan Public Service Commission

Representative of Administrative Department concerned not Co-opted Member
below the rank of Deputy Secretary

Deputy Secretary (Regulation) S&GAD Member/Secretary

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SECRETARY, S&GAD

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A copy is forwarded for information to: -

- The Additional Chief Secretary (Development) P&D Department, Quetta.
- . The Principal Secretary to Governor Balochistan, Quetta.
- . The Principal Secretary to Chief Minister Balochistan, Quetta.
- . The Secretary, Government of Balochistan, Agriculture & Cooperatives Dept. Quetta.
- . The Accountant General Balochistan, Quetta.
- . The Chairman, BPSC & PIT, Quetta.
- . Ali Administrative Secretaries to the Government of Balochistan. °
- . The Deputy Secretary (G) to Chief Secretary Balochistan, Quetta.

PS to Secretary S&GAD, Quetta.

0. PA to Deputy Secretary (Reg:), S&GAD, Quetta.

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(SAADAT KHAN)

Section Officer (Reg-II)
Services & General Administration
Department.

GOVERNMENT OF BALOCHISTAN
SERVICES AND GENERAL ADMINISTRATION
DEPARTMENT
(Regulation Section-II)

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Dated Quetta, the August 6, 2011

ORDER.

No. SO (R-II) 22(43)/S&GAD-2011 In continuation of this Department's Order
No. S.O.II-V(26)/S&GAD-71 dated 28TM May, 1971, the Government of Balochistan is
pleased to re-constitute Main Committee of Service Rules for the purpose of new and

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revision of the existing Recruitment Rules of various Services in the Province:-

Chief Secretary Balochistan Chairman

Chairman,
Balochistan Public Service Commission Member
(or in his absence the senior most Member).

Secretary, Law and Parliamentary Member
Affairs Department.

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Secretary, Finance Department Member
Secretary, Inter Provincial Coordination Member

Secretary, Services and General Member/Secretary
Administration Department.

Administrative Secretary concerned. Co-opted Member

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2. The cases relating to revision/framing of Service Rules will first be
considered by the Sub-Committee and the matter will be referred to the Law and
Parliamentary Affairs Department for vetting, before the orders of the Competent
Authority /Chief Secretary are obtained. In case of dis-agreement amongst the members
of the Sub-committee, the matter will be referred to the Main Committee for a decision
before obtaining orders of next higher authority/the Hon'ble Chief Minister.

CHIEF SECRETARY
BALOCHISTAN

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Even. Dated. Even
A copy is forwarded for information to :-

The Senior Member, Board of Revenue Balochistan, Quetta

The Additional Chief Secretary (Dev.), Government of Balochistan, P&D Department, Quetta

The Chairman, Provincial Inspection Team, Quetta

The Chairman, Balochistan Public Service Commission, Quetta

The Principal Secretary to Governor Balochistan, Quetta

The Principal Secretary to Chief Minister Balochistan, Quetta

All the Administrative Secretaries in Balochistan

The Accountant General Balochistan, Quetta

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All the Commissioners in Balochistan

All the Heads of the Attached Departments i

The Deputy Secretary (Staff) to Chief Secretary Balochistan, Quetta

All the Deputy Secretaries in S&GAD, Quetta

All the Under Secretary/Section Officers, S&GAD, Quetta

The Private Secretary to Minister for S&GAD

The Private Secretary to Secretary S&GAD, Quetta

The P.A. to Additional Secretary (Regulation), S&GAD, Quetta

The P.A. to Deputy Secretary (Regulation), S&GAD, Quetta

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(MUHAMMAD hed? "

Section Officer (Regulation-II)

S&GAD

Phone No. 081-9201563

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ON

2008 SC MR 713

[Supreme Court of Pakistan]

Present: Iftikhar Muhammad Chaudhry, C.J. Sardar Muhammad Raza

Khan and Saiyed Saeed Ashhad, JJ

MUHAMMAD ARSHAD and another----Petitioners

Versus

Mian NOOR AHMAD and others---Respondents

Civil Petition No.1593-L of 2005, decided on 16th August, 2005.

(On appeal from the judgment, dated 9-8-2005 of the Lahore High Court,

Bahawalpur Bench passed in Writ Petition No.2751 of 2005/BWP).

Constitution of Pakistan (1973)---

----Art. 185(3)---Educational Institution---Date of birth of candidate---

Determination of---Matriculation certificate of petitioner showed his date of birth as 11-12-1980 whereas in the birth certificate and identity card his date of birth was mentioned to be 25-12-1976---When petitioner filed his Admission Form for his appearance in Matriculation examination, he himself had mentioned 11-12-1980 as his date of birth---Date of birth shown in the birth certificate and identity card as 25-11-1976, in circumstances had no relevance because petitioner had never applied for its correction at any stage---Leave to appeal was refused.

Waqas Akram's case 2003 SCMR 145 ref.

Ch. Riyasat Ali, Advocate Supreme Court with M.A. Qureshi, Advocate-on-Record for Petitioners.

Muhammad Hanif Khatana, Additional Advocate-General, Punjab for A.-G. Punjab.

Date of hearing: 16th August, 2005.

ORDER

IFTIKHAR MUHAMMAD CHAUDHRY, C.J.---It is an admitted fact that in matriculation certificate petitioner M. Arshad has shown his date of birth to be 11th December, 1980. Learned counsel stated that in birth certificate and identity card his date of birth is mentioned to be 25th November, 1976.

Therefore, in view of the judgment in the case of Waqas Akram 2003 SCMR 145 the date as mentioned in birth certificate is to be accepted. It may be noted that the authority relied upon by the learned counsel is distinguishable and is not applicable to the facts of instant case. Further it is fact that when the petitioner filed his Admission Form for his appearance in matriculation examination of Board of Intermediate and Secondary Education Karachi, he himself has mentioned 11th December, 1980 as his date of birth. Therefore, the date of birth shown in the birth certificate and identity card as 25-11-1976 has no relevance because he has never applied for its correction at any stage to the Board Authorities. As such, we are of the opinion that the impugned judgment being unexceptionable admits no interference, as such, the petition is dismissed and leave to appeal is declined.

H.B.T./M-26/SC Petition dismissed.

No.S.O(R-1)5(13)1/2013/S&GAD/ 20 — {6%
GOVERNMENT OF BALOCHISTAN
SERVICES AND GENERAL ADMINISTRATION
DEPARTMENT
(REGULATION-I)}

Dated Quetta, the 2 JR January, 2013

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The Additional Chief Secretary (Dev-), P&D Department, Quetta.
The Senior Member, Board of Revenue Balochistan, Quetta.

The Member-II/ Secretary Excise and Taxation Department,
Balochistan Quetta.

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The Chairman, Chief Minister's Inspection Team, Quetta.
The Chairman, Balochistan Public Service Commission, Guelka.
The Chairman, Balochistan Development Authority, Quetta.

All the Administrative Secretaries to Government of Balochistan,
Department,

All Heads of Attached Departments in Balochistan.
All Divisional Commissioners in Balochistan,

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JUDGEMENT IN CONSTITUTION PETITION NO. 670 OF

2011 - MUHAMMAD MURAD BUGTI VERSUS SENIOR

BOARD 3 BALOCHISTAN AND

The Hon'ble High Court of Balochistan has passed a
Judgement on 10-12-2012 in the above quoted Constitution Petition.
The observations of the Hon'ble High Court of Balochistan contained at
paragraphs 8, 9 and 10 of the Judgement are reproduced here-under
for information and compliance:-

Para 8. reads Paragraph 4 of Regulation-I dated 27% July
1994, of the Services and General Administration
Department, Government of Balochistan, mandated

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that, "no request for alteration in the recorded

date of birth of a government servant shall be
+ if

entertained unless the government servant

applies for it within two years from the date of

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his entry into government service." Rule 12-A of the Balochistan Civil Servants (Appointment, Promotion and Transfer) Rules, 1979, went further and stated that, "The date of Birth once recorded

of a civil servant at the time of joining the

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Government service shall be final and no

alteration in the date of birth of a civil servant shall be permissible." Presently the matter is attended to by Rule II of the Balochistan Civil Servants (Appintment, Promotion and Transfer} Rules, 2009, which whilst following Rule 12-A of the 1979 Rules creates only one exception, "where a clerical mistake occurs." A clerical mistake is one where, for example, in the record a mistake was committed thzt is discernible from the record. It is an error which can only be explained by considering it ta be a slip, mistake or omission on the part of the person who prepared the document. And such clerical mistake too can only be corrected within two years of entering into service and on the recommendation of a four member Enquiry Comunittee comprising of the Senior Member, Board of Revenue, Secretary, Services and General Administration, Secretary, Lew Department and the Secretary of the concerned Administrative Department. When questions of contentious nature are involved the Rule If cannot be invoked to justify an alteration in age. It also does not permit a person to take a position regarding his date of birth which is different from the one he himself mentioned end which appears on his educational degrees / certificate produced by him. In determining the scope of- a court's jurisdiction under section 152 Code of Civil Procedure, which enables a court to correct 'clerical or arithmetical mistakes in judgements, decrees or orders' the Hon'ble Supreme Court in the case of

Bagar_v. Muhammad Rafique, 2003 SCMR 1401, held that:

'13. When a decision depends upon consideration of arguable questions of law, the construction of documents, the determination of rights in view of record,

such determination cannot be made by a

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Court exercising jurisdiction under section

- 152, CPC. An error apparent on the face of record or an accidental slip or omission should be 'an error apparent on the first sight and omission should be an accidental slip or omission made by the court. Such an error, for its discovery, should not depend on elaborate arguments on questions of facts or law."

The aforesaid principle enunciated by the Hon'ble Supreme Court would be equally applicable in the determining an application for alteration of date submitted under Rule II.

Petitions, like this one, and we may add suits too, are not maintainable that seek to change the date of birth of a civil servant, *inter alia* for the reason that the law provides an alternative remedy. Moreover, what cannot be done directly can also not be done indirectly. Therefore, if a civil servant, first seeks to have the date recorded on his CNIC and/or any educational degree changed, by only arraying NADRA and/or the applicable educational board as defendant/s or respondent/s, as the case may be, and after obtaining a favourable judgement/decree proceeds to have the date of birth changed in his service record, the same cannot be done, and as the concerned department/authority was not made a party to the case and no prayer was made to change the date recorded in the service record.

There are innumerable cases where government servants and others have resorted to have their date of birth changed either to extend their tenure in service or else to obtain some advantage, for instance, a job prescribes a certain age and the applicant has become overage. A person who succeeds in becoming 'younger' through such tactics makes a mockery of the applicable law and/

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or rules and also offends nature. A person is born when he leaves his mother's womb, and not when he decides he was born. What is more, a person who fraudulently becomes 'younger' effectively steals from the public and denies his colleagues the benefits due to them. If he is in service after the prescribed retirement age then he continues to burden the public exchequer, and his subordinates are also deprived of a promotion, as the position occupied by such person would have fallen vacant upon his retirement. Similarly, if an overage person, after reducing his age by manipulation, applies for an age specific position he also violates the applicable law/rule, and also the rights of all those applicants

who are actually of the prescribed age.

2. All concerned are directed to strictly follow the relevant rules issued by the Government from time to time dealing with regard to the above referred matters of civil servants.

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(AHMED MANGI)
Secretary [GAD

A copy forwarded to the:-

- . The Principal Secretary to Governor Balochistan, Quetta.
- . The Principal Secretary to Chief Minister Balochistan, Quetta.
- . The Additional Registrar 'Judicial' High Court of Balochistan, Quetta with reference to his Memorandum No. 4 1868/Judl: (D. B) C.P, No.670/2011, dated the 17th December, 2012.
- . All the Additional Secretaries in S&GAD.
- . The Deputy Secretary (Staff) to Chief Secretary Balochistan, Quetta.
- . All the Deputy Secretaries /Section Officers in S&GAD.

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Para-116.

DATE OF BIRTH

G.F.R_ (VOL-I)

Every person newly appointed to a service or a post under Government should at the time of the appointment declare the date of his birth by the Christian era with as far as possible confirmatory documentary evidence such as matriculation certificate, municipal birth certificate and so on. If the exact date is not known, an approximate date may be given. The actual date or the assumed date determined under para 117 should be recorded in the history of service, service book, or any other record that may be kept in respect of the Government servant's service under Government and once recorded, it cannot be altered, except in the case of a clerical error, without the previous orders of the Local Administration.

Note 1.—Ministries/ Division of the Federal Government exercise the powers of a Local Administration for the purpose of this rule.

Note 2.—Heads of departments are authorised to exercise this power in the case of non-sazetted Government servants under their control.

Para-117.

(1) If a Government servant is unable to state his exact date of birth but can state the year, or year and month of birth, the 1st July or the 16th of the month, respectively, may be treated as the date of his birth.

If he is only able to state his approximate age, his date of birth may be assumed to be the corresponding date after deducting the number of years representing his age from his date of appointment.

When a person who first entered Military employ is subsequently employed in a Civil department, the date of birth for the purpose of the Civil employment should be the date stated by him at the time of enrolment, or if at the time of enrolment he stated only his age, the date of birth should be deduced with reference to that age according to the method indicated in sub-para. (2) above.

Note.—Cases in which the date of birth has been deduced from the age at appointment or enrolment by any other method, need not be reopened.

Financial years means the year beginning on the 1st of July and ending on the 30th of June following.

Age. When an officer is required to retire, revert, or cease to be on leave on attaining a specified age, the day on which he attains that age is reckoned as a non-working day, and the officer must retire,

revert or cease to be on leave (as the case may be) with effect from an including that day.

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A person who is appointed by initial appointment to a post must be within the age limits as prescribed in the recruitment rules applicable to the post concerned:

Provided that the prescribed upper age limit shall be relaxed to the extent specified in the Initial Appointment to Civil Posts policy.

Day means a calendar day beginning and ending at midnight. But an absence from head-quarters which does not exceed 24 hours is reckoned as one day, at whatever hours the period begins and ends.

Family includes the officer's wife, his legitimate children and step-children residing with and wholly dependent on him; and also his parents, sisters, and minor brothers if wholly dependant on, and residing with him.

First appointment includes the appointment of a person not at the time holding any appointment under Government, even though he may have previously held such an appointment.

Medical Certificate: Except as provided by this rule, no person may be appointed in Pakistan to a post in Government service without a medical certificate of health, which must be affixed to this first pay bill.

No person may be appointed in Pakistan to a post in Government service without a medical certificate of health by a Commissioned Medical Officer of the Government or by a Medical Officer-in-charge of a civil station. This certificate shall be annexed to the first bill submitted for the pay of the officer.

No T.A on first appointment.

Except as otherwise provided in this section, travelling allowance is not admissible to any person for the journey to join his first post in Government service.

RETENTION OF OLD PAY SCALE

The holder of a post, the pay of which is changed, shall be treated as if he were transferred to a new post on the new pay; provided that he may at his option retain his old pay until the date on which he has earned his next or any subsequent increment on the old scale, or until he vacates his post or ceases to draw pay on that timescale. The option once exercised is final.

The incumbent of an appointment the pay of which is changed shall be treated as if he were transferred to a new appointment on the new pay:

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Provided he may at his option retain his old pay until the date on which he has earned his next or any subsequent increment on the old pay, or until he vacates his appointment. This option once made is final.

Transfer means the movement of a Government servant one headquarter station in which he is employed from to another such station, either:

- (a) to take up the duties of a new post, or
- (b) in consequence of a change of his headquarters.

C.S.R-157-B. (a) | When, however, the conditions of an officer's service are

Para-114.

Para-115.

such that he is liable to be transferred in the same department between appointments of which the pay and increments are identical, his service will, in the case of such a transfer, count for increments as if he had not been transferred.

TRANSFER OF OFFICE

G.F.R_ (VOL-I)

Every transfer of charge of a gazetted officers should be reported by post on the same day to the Accountant General. The report

should be made in Form TR. I unless any other form has been duly authorised and should simultaneously be sent to the head of the department or other Controlling authority concerned.

In cases in which the transfer of charge involves assumption of responsibility for cash, stores, etc., the following instructions should be observed:-

(i) The cash book or imprest account should be closed on the date of transfer and a note recorded in it over the signature of both the relieved and the relieving officers, showing the cash and imprest balances, and the number of unused cheques, if any, made over and received by them respectively.

The relieving officer in reporting that the transfer has been completed should bring to notice anything irregular or objectionable in the conduct of business that may have come officially to his notice. He should examine the accounts, count the cash, inspect the stores, count, weigh and measure certain selected articles in order to test the accuracy of the returns. He should also describe the state of the account records.

In the case of any sudden casualty occurring or any
emergent necessity arising for an officer to quit his charge,

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the next senior officer of the department present will take charge. When the person who takes charge is not a gazetted officer, he must at once report the circumstances to his nearest departmental superior, and obtain orders as to the cash in hand, if any.

Note-1.—The special procedure to be followed when there is a change in the incumbency of independent charge of treasury is laid down in Rule 44 of the Treasury Rules.

Note- 2.—The additional procedure to be followed by an Accountant General, etc., in making over charge of his function in connection with the Charitable Endowments and other Trust Accounts is laid down in Appendix-16.

C.S.R-67.

(a)

TRANSFER ON DUTY.

No officer (unless he has been newly appointed to the service of Government) can begin to draw any pay or allowances at any treasury in Pakistan without producing a last-pay certificate from the treasury where his pay or allowances were last disbursed, or from the Accountant-General within whose jurisdiction this treasury is, or in the case of non-gazetted officer, from the head of the office under whom he was last employed.

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Joining Time.

Joining time means the time allowed to a Government servant in which to join a new post or to travel to or from a station to which he is posted.

Joining time may be granted to a Government servant to enable him—.

(a) to join a new post to which he is appointed while on duty in his old post; or

to join a new post—

(i) on return from leave on average pay of not more than four month's duration, or

(ii) when he has not had sufficient notice of his appointment to the new post, on return from leave other than that specified in sub-clause (i); or

to travel from the port of debarkation (or, in the case of arrival by aircraft, from its first regular port in Pakistan and organize his domestic establishments when he returns from leave on out of Pakistan of more than four months' duration; or

(i) to proceed from a specified station to join a post at a place in a remote locality which is not easy of access:

to proceed on relinquishing charge of a post at a place in a remote locality which is not easy of access to a specified station.

Not more than one day is allowed to a Government servant in order to join a new post when the appointment to such post does not necessarily involve a change of residence from one station to another. A holiday counts as a day for the purpose of this rule.

The joining time of a Government servant in cases involving a transfer from one station to another, neither of which is in remote

locality not easy of access, is subject to a maximum of 30 days. Six days are allowed for preparation.

A Government servant is allowed —

(a) ... (c)

(d) Travel by road not exceeding five miles to or from a

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railway station or streamer ghat at the beginning or end of a journey does not count for joining time.

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A Sunday does not count as a day for the purpose of the calculations in this rule, but sundays are included in the maximum period of 30 days.

S.R-294-A. For a journey between a place in a remote locality mentioned in column 1 of the table and the station specified against it in column 2 of the table, the joining time of a Government servant under Fundamental Rule 105 (d) is the period shown in column 3 of the table irrespective of whether the journey is performed on transfer or on leave; provided that in the case of leave, the concession is admissible to a Government servant—.

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(1) who is of genuine Pakistani or European domicile and has been specially recruited outside the remote locality concerned for service there, and

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who, though not specially recruited outside the remote locality concerned for service there, is of genuine Pakistani or European domicile and is in service whether in a permanent or other capacity on the 8th January 1937; provided that (here is no break in his service after that date. The Joining time shall be held to commence on the day following the handing over of charge of the Government servant's post or on the day of his arrival at the specified station according as Government Servant is proceeding from or to the place in the remote locality. To the Joining time admissible under this rule, may be added any joining time, including days allowed for preparation, that a Government servant may be entitled to under Fundamental Rule 105(a), (b) or (c) for such portion of his journey as may not be covered by this rule.

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S.R-296. By whatever route a Government servant actually travels, his joining time shall, unless a competent authority for special reasons otherwise order, be calculated by the route which travellers ordinarily use.

If a Government servant is authorised to make over charge of a post elsewhere than at its headquarters, his joining time shall be

calculated from the place at which he makes over charge.

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If a Government servant is appointed to a new post while in transit from one post to another his joining time begins on the day following that on which he receives the order of appointment.

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Audit_instructions— A second period of 6 days for preparation should not be allowed in calculating the joining time of a Government servant who is appointed to a new post while in transit from one post to another.

Except in the case of joining time admissible under rule 294-A, a competent authority may in any case extend the joining time admissible under these rules, provided that the general spirit of the rules is observed.

Audit Instruction.— If a competent authority sanctions under this rule an extension of joining time beyond a period of 30 days for the reasons stated in clause (b) of Supplementary Rule 302, it should be considered that the general spirit of the rules has been observed.

Except in the case of joining time admissible under rule 294-A, within the prescribed maximum of 30 days, a competent authority may, on such conditions as it thinks fit, grant to a Government servant a longer period of joining time than is admissible under the rules in the following circumstances:

(a) when the Government servant has been unable to use the ordinary mode of travelling or, notwithstanding due diligence on his part, has spent more time on the journey than is allowed by the rules ; or

when such extension is considered necessary for the public convenience or for the saving of such public expenditure as is caused by unnecessary or purely formal transfers; or

when the rules have in any particular case operated harshly; . as for example, when a Government servant has through no fault on his part missed a steamer or fallen sick on the journey.

A Government Servant on joining time shall be regarded as on duty and shall be entitled to be paid as follows:—

(a) If on joining time under clause (a) of rule 105, he is entitled to the pay which he would have drawn if he had not been transferred or the pay which he will draw on taking charge of his new post, whichever is less.

If on joining time under clause (b)or (c)of rule 105 he is entitled—

(i) When returning from extraordinary leave, other than extraordinary not exceeding fourteen days granted in continuation of other leave; if a member of the former Indian Civil Service or a military commissioned officer subject to the civil leave rules, to subsistence

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grant; otherwise, to no payments at all:

When returning from leave of any other kind; to the leave salary which he last drew on leave at the rate proscribed for the payment of leave salary in Pakistan;

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(c) If on joining time under clause (d) of rule 105, he is entitled to pay as though he were on duty in his post.

Government servant is at the disposal of the Government

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F.R-11. Unless in any case it be otherwise distinctly provided the whole time of a Government servant is at the disposal of the Government which pays him, and he may be employed in any manner required by proper authority, without claim for additional remuneration, whether the services required of him are such as would ordinarily be remunerated from general revenues, from local fund or from the revenues of a State that has acceded to Pakistan.

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Average pay means the average monthly pay earned during the 12 complete months immediately preceding the month in which the event occurs which necessitates the calculations of average pay.

A question was raised whether for the purpose of F.R-30 appointment to the selection grade of a cadre involves the assumption of duties and responsibilities of greater importance than those attaching to posts in the ordinary grade of that cadre. The position ordinary grade and the selection grade are two grades of one and the same post. Promotion of a person from the ordinary grade to the selection grade of a grade does not mean a change of posts and consequently does not involve assumption of duties and responsibility of greater importance for the purpose of F.R-30.

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Cadre means the strength of a service or a part of a service sanctioned as a separate unit.

Acting Promotion: A local Government may issue general or special orders allowing acting promotion to be made in the place of Government servants who are treated as on duty under Rule-(6) (b).

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Duty:-

(a) Duty includes:-

(i) Service as a probationer or apprentice, provided that such service is followed by confirmation.

(ii) Joining time.

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(iii) Extra Leave on average pay granted to a Government undergoing treatment at a Pasteur Institute.

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A local Government may issue orders declaring that, in circumstances similar to those mentioned below, a Government servant may be treated as on duty :—

(i) During a course of instruction or training in Pakistan.

In the case of a student, stipendiary or other wise, who is entitled to be appointed to the service of Government on passing through a course of training at a university, college or school in Pakistan during the interval between the satisfactory completion of the course and his assumption of duties.

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During preparation in Pakistan for an examination in any oriental language.

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On the first arrival in Pakistan of Government servants appointed in England who do not, before they report themselves at the seat of the local Government concerned, receive orders to take charge of a specified post, during the interval between the date of such report and the date on which they take charge of their duties.

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Local Administration means the local Government of any Province other than a Governor's Province.

Ministerial servant means a Government servant of a subordinate service whose duties are entirely clerical, and any other class of servant specially defined as such by general or special order of a local Government.

Ministerial officer means an officer, whether gazetted or not, whose duties are not of an administrative or executive character, but is employed as a member of an office establishment.

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Grade and Class- Appointments are said to be in the same "class" when they are in the same Department, and bear the same designation, or have been declared by the Government of Pakistan to be in the same class. appointments in the same class are sometimes divided into "Grades" according to pay.

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Month means a calendar month. In calculating period expressed in terms of months and days, complete calendar months, irrespective of the numbers of days in each, should first be calculated and the odd number of days calculated subsequently.

F.R-9(21)(a) Pay means the amount drawn monthly by a Government servant

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F.R-9 (22)

F.R-9(28)

C.S.R-28

F.R-9 (30)

C.S.R-76-A

F.R-30-A.

NOTE—

F.R-31

the pay, other than special pay or pay granted in view of his personal qualifications, which has been sanctioned for a post held by him substantively or in an Officiating capacity, or to which he is entitled by reason of his position in a cadre, and

(ii) overseas pay, technical pay, special pay and personal pay, and

(iii) | any other emoluments which may be specially classed as pay by the Governor-General.

Permanent post means a post carrying definite rate of pay sanctioned without limit of time.

Substantive Pay means the pay other than special pay, personal pay or emoluments classed as pay by the Governor-General under rule-9(21)(a)(iii), to which a Government servant is entitled on account of a post to which he has been appointed substantively or by reason of his substantive position in a cadre.

Pay and Salary

(a) Pay means monthly substantive pay. It includes also overseas allowance and technical allowance.

(b) Salary means the sum of pay and acting allowance, or charge allowance under Article-94 of Chapter-VIII.

Temporary post means a post carrying definite rate of pay sanctioned for a limited time.

Temporary Appointments. A temporary appointment is an appointment carrying a definite rate of pay sanctioned for a limited time.

Tenure post means a permanent post which an individual Government servant may not hold for more than a limited period.

In case of doubt, a local Government may decide whether a particular post is or is not a tenure post.

(a) Time Scale pay means pay which, subject to any conditions prescribed in these rules, rises by periodical increments from a minimum to a maximum. It includes the class of pay hitherto known as progressive.

Time-scales are said to be Identical if the minimum, the maximum, the period of increment and the rate of increment of the time-scales are identical.

A post is said to be on the same time-scale as another post

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Note- 2.—

on a time-scale if the two time-scales are identical and the posts fall within a cadre, or a class in a cadre, such cadre or class having been created in order to fill all posts involving duties of approximately the same character or degree of responsibility, in a service or establishment or group of establishments so that the pay of the holder of any particular post is determined by his position in the cadre or class and not by the fact that he holds that Post.

Officers under Training

A Local Government may at its discretion decide, in the case of an officer who is selected to undergo a course of training, whether the time spent in training shall count as service qualifying for leave; and also whether or not such time shall be regarded as an interruption entailing forfeiture of leave already earned.

[The Local Government may delegate its power under this Article to Heads of Departments in respect of officers serving under them.]

(A Local Government may issue general orders under this Article in regard to any specified class of officers under training.]

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Dated Quetta, the 4th April, 1988.

Additional Chief Secretary (Dev) P&D Department, Quetta.

Members Board of Revenue, Baluchistan, Quetta.

All Administrative Secretaries in Baluchistan.

All Heads of Attached Department, Baluchistan,

411 Commissioners/Deputy Commissioners/Poli.*:al Agents in

- Baluchistan.

**DRAWAL OF PAY FROM THE DATE OF ASSUMPTION OF CHARCL/
_ MEDICAL FITNESS CERTIFICATE.**

The Saeed is dirzeted to refer to the subject cited above and to say that a3 per F.R.17 a Government Servant has to draw the pay and allowances from the date of assumption of charge and F.R.10 as well as Services and General Administration Department's letter NoSOR(2) 100/Saci.D/cu, dated 8-6-1982 require that no person may be appointed to a post in, Government Service without a medical certificate of health, which must be affixed to his first bill.

2. The real motive behind the F.Rs and Government Orders referred to in para 1 above was to ensure that only 'medically fit persons are appointed in Government Service and a solid proof regarding their fitness is obtained 2 the form of a medical certificate before they are allowed to take up their assignments, Impliedly it means that no body should be allowed to join his duties on his first appointment unless a medical certificate is obtained and submitted by him on such occasion.

3e 4 ,question has arisen whether a person who assumed the cho: . of a post on 4-1-1988 and eubmittod his modioal fisnoss corlificate from Medical Board subsequently on 28-1--1988 is entitled to draw his pay an? allowances from the date of assumption of charge or from the date of medical certificate which is a pre-remisite for cnery into Goeversuasnt Cerviee,

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4. 4 newly Recruited person is ent

allowances from the dato of assumption of

fit later on.

itled to draw the pay ang
is duties if he is declareg

No Salary, however, can be paid unless the required
Medical Certificate is Subnitted,

accordance with the provisions of
the rules on the Subject.

If the medical certificates are issued in tine,

the situation a8 discribed in Para 3 will never take place,

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(8UHAAgD IGN JuPPax)

Section Officer(Rogulat ion-1) .

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Drawal of pay.

Subject to any exceptions specifically made in these rules and to the provisions of sub-rule (2), an officer shall begin to draw the pay and allowances attached to his tenure of a post with effect from the date when he assumes the duties of that post and shall cease to draw them as soon as he ceases to discharge those duties :

Provided that the appointing authority may, if satisfied that a civil servant who was entitled to be promoted from a particular date was, for no fault of his own, wrongfully prevented from rendering service to the Federation in the higher post, direct that such civil servant shall be paid the arrears of pay and allowances of such higher post through proforma promotion or up-gradation arising from the ante-dated fixation of his seniority.

The date from which a person recruited overseas shall commence to draw pay on first appointment shall be determined by the general or special orders of the authority by whom he is appointed.

Audit Instructions —

(1) A Government servant will begin to draw the pay and allowances attached to his tenure of a post with effect from the date on which he assumes the duties of that post if the charge is transferred before noon of that date. If the charge is transferred afternoon, he commences to draw them from the following day. This rule does not, however, apply to cases in which it is the recognized practice to pay a Government servant at a higher rate for more important duties performed during a part only of a day.

Medical Certificate: Except as provided by this rule, no person may be appointed in Pakistan to a post in Government service without a medical certificate of health, which must be affixed to his first pay bill. A local Government may make rules prescribing the form in which medical certificates should be prepared, and the particular medical or other officers by whom they should be signed. It may, in individual cases, dispense with the production of a certificate, and may by general orders exempt any specified class of Government servants from the operation of this rule.

(a)

Unless it be otherwise provided by special rule or contract, the salary of an officer begins when he takes charge of the appointment in respect of which it is earned. If the charge is transferred afternoon, the transfer does not affect allowances until the next day.

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Para-123.

If, however, the substantive appointment of an officer is changed while he is officiating in an appointment, or if, while so officiating, an officer is appointed, for the first time, to some substantive office, then, provided that this tenure of his officiating appointment is not interrupted by his new substantive appointment, he may draw the pay thereof without joining it from the date on which he is appointed thereto, or from any later date on which the substantive office becomes vacant.

Initial Pay

When an officer is appointed substantively to a post on progressive pay—

(a) (i) if he has not previously officiated in the post ; or

(ii) if he has officiated in it but his present substantive pay exceeds the salary which he last drew in it,

he will draw as initial pay the pay of the stage in the progressive scale next above his present substantive pay, and will draw increments after the period usually required ; and

(b) If he has previously officiated in the post, but his present substantive pay does not exceed the salary which he drew when last officiating,

he will draw initial pay equal to that salary, and will count for increment in that stage the period during which he was drawing the said salary.

Arrear Claims.

No claim against the Governor not preferred within six months of their becoming due can be presented without an authority from the Accountant General. This rule does not apply to claims of Rs. 5 or less which are preferred within one year of their becoming due, nor does it apply to payments of claims on account of pensions, which are regulated by rule 369, nor to payments of interest on Government securities or any other class of payments which are governed by special rules or orders of the Government.

G.F.R (VOLUME-I)

Save as provided in rule 136 of the Treasury Rules, no claims to pay and allowances of a Government servant, which are not preferred within six month of their becoming due can be paid without an authority from the Accountant General.

For the purpose of this rule, the date on which the claim is presented at the Treasury

or any other office of disbursement should be considered to be the date on which it is preferred.

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Claims of Government servants to arrears of pay or allowances or to increments, or in respect of any under payments, which have been allowed to remain in abeyance for a period exceeding one year may not be investigated by an Accountant General, except under the special orders of competent authority.

Note.—Ministries and Divisions of the Federal Government exercise full powers to sanction investigation of arrear claims, subject to the restrictions laid down in paras 125 and 126.

Para-125.

Para-126.

Subject to the restriction laid down in paras 125 and 126. Heads of Local Administrations and heads of departments have been empowered to exercise this power in respect of claims not more than three years old, and to delegate it at their discretion to a subordinate authority which appoints the Government servant by whom the claim is made.

Claims against Government, which are bared by time under the provisions contained in Section 3 read with the First Schedule of the Limitation Act of 1908 or under any other provisions of law relating to limitation, should ordinarily be refused and no claim on account of such a time barred item should be paid without the sanction of Government. The onus is upon the claimant to establish a claim to special treatment for a time barred item, and it is the duty of the authority against which such a claim is made to refuse the claim until a case for other treatment is made out. All petty time-barred claims are to be rejected forthwith and only important claims of this nature considered.

It is the duty of the authority against which a claim is made to consider in the first instance the question of a time-bar before submitting it to the Accountant General for the issue of authority for payment. The Accountant General will refuse payment of all claims found to be time-barred until the sanction of Government has been obtained.

All petty claims of a Government servant more than three years old, other than those that affect his pension, and all such claims for whose delayed submission an adequate explanation is not forthcoming, should be rejected forthwith. Sanction to investigation of claims over six years old should not be accorded unless and until it has been ascertained from the Accountant General concerned that the relevant records are available and have not been destroyed and the Ministry of Finance has been consulted.

Para-126-A. The authority competent to authorize the investigation of a belated claim should be told why the claim was not submitted when it became due.

In respect of non-gazetted Government servants whose pay and allowances are drawn on establishment bills by the Heads of

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Offices, the responsibility for making claims rests on the latter and they should invariably see that all claims are presented within six months of their falling due.

The time limits prescribed in these instructions should be calculated from the date on which the charge becomes payable. In the case of sanction accorded with retrospective effect, the charge does not become payable before it is sanctioned; the time limits should, therefore, be calculated from the date of sanction and not from the date from which the sanction taken effect.

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S.R-2(15) Probationer_ means a Government servant employed on probation in or against a substantive vacancy in the cadre of a Department.

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PROBATION RULES

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Probation— (1) A person appointed to the Service against a substantive vacancy shall remain on probation for a period of two years, if appointed by initial recruitment and for a period of one year, if appointed otherwise.

Explanation—Officiating service and service spent on deputation to a corresponding or a higher post/position may be allowed to count towards the period of probation.

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(2) If the work or conduct of a member of the Service during the period of probation has been unsatisfactory, the appointing authority may, notwithstanding that the period of probation has not expired, dispense with his services, if he has been appointed by initial recruitment, and if he has been appointed otherwise, revert him to his former post/position or if there is no such post/ position dispense with his services.

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(3) On completion of the period of probation of a member of the Service the appointing authority, may, subject to the provisions of sub-rule (4), confirm him in his appointment, or if his work or conduct has, in the opinion of such authority, not been satisfactory: -

(a) in case he has been appointed by initial recruitment, dispense with his services; or

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in case he has been appointed otherwise, revert him to his former post, position and if there be no such post/ position dispense with his services; or

extent the period of probation by a period not exceeding two years in all and during or on the expiry of such period pass such orders as it could have passed during or on the expiry of the initial probationary period.

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Explanation E-If no orders have been made by the day following the completion of the initial probationary period, the period of probation shall be deemed to have been extended.

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Explanation IF-If no orders have been made by the day on which the maximum period of probation. expires, 'the probationer shall be deemed to have been confirmed in his appointment.

Explanation II-F A probationer who has satisfactorily completed his period of probation shall be confirmed with effect from the date of his continuous appointment in the Service in a substantive vacancy; provided that where the period of his probation has been extended under the provisions of clause (c) of this sub-rule, the date of confirmation shall subject to the other provisions of this rule, be the date on which the period of probation was last extended.

(4) No person shall be confirmed in the Service unless he successfully completes such training and passes such departmental examinations as may be prescribed by Government from time to time.

(5) If a member of the Service fails to complete successfully any training or pass any departmental examination prescribed under sub-rule (4) within such period or in such number of attempts as may be prescribed by Government the appointing authority may:—

(a) in case he has been appointed by initial recruitment, dispense with his services; or

in case he has been appointed otherwise, revert, him to his former post position and if there be no such post/position dispense with his services.

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©) CHIEF SECRETARY BALOCHISTAN

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NO. SO (Judl:) 790 /S&GAD/2012/ AVP - 4368 -

Dated Quetta, the _/ December, 2012

The Additional Chief Secretary (Dev),
Planning and Development Department,
Government of Balochistan, Quetta.

The Senior Member,
Board of Revenue,
Balochistan, Quetta.

The Chairman,
Chief Minister's Inspection Team Balochistan, Quetta.

The Chairman,
Balochistan Public Service Commission, Quetta.

All Administrative Secretaries,
Government of Balochistan,
Quetta.

All Divisional Commissioners of Balochistan.

Subject: | CONSTITUTIONAL PETITION NO. 23 OF 2012

OUT OF
SUO MOTO CASE NO. 3/2012.

(TITLED MS. ANITA TURAB FOR PROTECTION OF CIVIL
SERVANTS UNDER ARTICLE 184 (3) OF THE CONSTITUTION

OF ISLAMIC REPUBLIC OF PAKI 73).

Reference Law and Parliamentary Affairs Department's letter No. 4-57/1999-
Admn/Law/11216-58 dated 26% November, 2012 on the subject noted above. Although the Law
and Parliamentary Affairs Department has already circulated the judgment of the Hon'able
Supreme Court of Pakistan in subject case vide above referred letter, yet important points and
guidelines of the judgment dated 12% November, 2012 are summarized as under for

information and strict compliance:

(a) Appointments and Removals of Civil Servants:

The statutory provisions or rules or regulations which govern the matter of
appointments of civil servants, the same must be followed honestly and
scrupulously. Where there are no explicit rules governing the appointment
process, and appointments are to be made in the exercise of discretionary
powers, such discretion must be employed in structured and reasonable
mannered and in public interest.

Promotions:

Consideration of an officer for promotion is to be based not only on the relevant law and the rules but also to be based on some tangible material

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related to merit and eligibility. In exceptional cases where rules are silent, discretion in matters of promotion must be exercised fairly and in a transparent manner. Discretion has to be understood within the four corners of the concept of rule of law.

Transfers and Tenures:

The normal period of posting of a Government Servant at a station is three (03) years which has to be followed in the ordinary circumstances, unless for reasons or exigencies of service a transfer before expiry of the said period becomes necessary in the opinion of the competent authority. Furthermore, transfers of civil servants by political figures which are capricious and based on considerations not in public interest are not legally sustainable.

Obeying Illegal Orders from Superiors:

The duty of public officers is to independently discharge their functions and not to be influenced by "dictatorial misuse of powers" at the ends of political figures. The appointment and removal of civil servants is not to be politically motivated. The compliance of any illegal and arbitrary order is neither binding on the subordinate forums nor valid in the eyes of law. In case the subordinates are directed to implement an illegal order they should put on record their dissenting note. Moreover, the compliance of illegal orders of superiors is not justified on the basis of having been issued from higher authority as it is the law and Constitution which must be obeyed. Similarly illegal orders can not be defended on the plea that these could expose the concerned Government servant to the risk of disciplinary action.

Posting Civil Servant as Officers on Special Duty (OSD):

Officer should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an Officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed at the earliest.

All concerned are directed to strictly follow the relevant law, rules, regulations and policies issued by the Government from time to time dealing with the above referred matters of civil servants. Moreover, above guidelines/ instructions set forth by the Hon'able Supreme Court of Pakistan must be implemented in letter and spirit. The failure of a state functionary to apply a legal principle which is clearly and unambiguously attracted to a case may expose him to contempt proceedings under Article 204 (2) (a) of the Constitution of Islamic Republic of Pakistan. So re

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(BABAR YAQOOB FATEH MUHAMMAD)

Chief Secretary Balochistan

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